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ORGANIZATION OF AMERICAN STATES

INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

APPLICATION BEFORE THE INTER-AMERICAN COURT OF HUMAN RIGHTS

***Campo Algodonero: Claudia Ivette González,
Esmeralda Herrera Monreal and Laura Berenice Ramos Monárrez***
Cases Nos. 12.496, 12.497 and 12.498

AGAINST THE UNITED MEXICAN STATES

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I. INTRODUCTION.....	3
II. PURPOSE OF THE APPLICATION.....	4
III. REPRESENTATION	6
IV. THE JURISDICTION OF THE COURT	6
V. PROCESSING BEFORE THE INTER-AMERICAN COMMISSION	6
A. Separate Processing.....	7
1. Petition No. 281/02, Case No. 12.496: Claudia Ivette González.....	7
2. Petition No. 282/02, Case No. 12.497: Esmeralda Herrera Monreal....	8
3. Petition No. 283/02, Case No. 12.498: Laura Berenice Ramos Monárrez	
10	
B. Joinder of Proceedings	11
C. Precautionary Measures.....	14
D. Request for Provisional Measures.....	15
VI. GROUNDS IN FACT.....	16
A. General Context: Violence Against Women in Ciudad Juárez and Impunity .	16
B. The disappearance and death of Claudia Ivette González and the subsequent	
investigation.....	20
C. The disappearance and death of Esmeralda Herrera Monreal and the subsequent	
investigation	25
D. The disappearance and death of Laura Berenice Ramos Monárrez and the	
subsequent investigation	30
VII. GROUNDS IN LAW.....	33
A. Violation of the right to live free from violence and discrimination	34
B. Violation of the right to life	39
C. Violation of the rights to a fair trial and to judicial protection.....	46
D. Violation of the rights of the child	61
E. Violation of the right to humane treatment	64
VIII. REPARATIONS AND COSTS	68
A. Obligation to repair	68
B. Reparations measures	70
1. Measures for cessation, rehabilitation, satisfaction, and guarantees of	
non-repetition.....	72
2. Compensation Measures	76
2.1. Pecuniary Damages	76
2.2. Non-pecuniary damages	77
C. The beneficiaries	78
D. Costs and expenses	78
IX. CONCLUSION.....	79
X. PETITION.....	79
XI. EVIDENCE.....	80
A. Documentary evidence	80
B. Evidence from witnesses and experts	87
1. Witnesses.....	87
2. Experts	88
XII. PARTICULARS OF THE ORIGINAL COMPLAINANTS, THE VICTIMS AND THEIR NEXT	
OF KIN	89

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**CASES Nos. 12.496, 12.497 AND 12.498
CAMPO ALGODONERO: CLAUDIA IVETTE GONZÁLEZ,
ESMERALDA HERRERA MONREAL AND LAURA BERENICE RAMOS MONÁRREZ**

I. INTRODUCTION

1. The Inter-American Commission on Human Rights (hereinafter "the Inter-American Commission," "the Commission," or "the IACHR") hereby submits this application to the Inter-American Court of Human Rights (hereinafter "the Inter-American Court" or "the Court") related to cases Nos. 12.496, Claudia Ivette González; 12.497, Esmeralda Herrera Monreal; and 12.498, Laura Berenice Ramos Monárrez against the United Mexican States (hereinafter the "State," the "Mexican State," or "Mexico"), regarding the responsibility it has incurred in failing to provide measures of protection to Claudia Ivette González, 20 years of age, Esmeralda Herrera Monreal, 15 years of age, and Laura Berenice Ramos Monárrez 17 years of age (hereinafter "the victims"¹); the lack of prevention of gender crimes, despite full knowledge of the existence of a pattern of violence that had left hundreds of women and girls murdered by the time of the facts; the lack of response on the part of the authorities to the disappearance of the victims; the lack of due diligence in the investigation of the victims' murders, as well as the denial of justice and the failure to provide adequate compensation to their next of kin.

2. The Inter-American Commission petitions the Court to establish the international responsibility of the Mexican State, which has failed to comply with its international obligations in violating articles

- a) 4, 8.1 and 25 of the American Convention on Human rights (hereinafter "the American Convention" or "the Convention") regarding the general obligation to respect and guarantee human rights established in article 1(1) and the duty to adopt legislative or other measures as may be necessary to give effect to the rights protected by the treaty, pursuant to article 2 of same; and article 7 of the

¹ As it shall be shown below, the next of kin of Claudia Ivette, Laura Berenice, and Esmeralda are also victims of the facts. However, the expression "victims" shall only be used for them, and "next of kin of the victims" for their next of kin.

Inter-American Convention on Prevention, Punishment and Eradication of Violence against Women (hereinafter "Convention of Belém do Pará), with prejudice to Claudia Ivette González, Esmeralda Herrera Monreal and Laura Berenice Ramos Monárrez;

- b) 19 of the American Convention, in connection with the general obligation established by article 1(1) and the duty to adopt legislative or other measures as may be necessary to give effect to the rights protected by the treaty, pursuant to article 2 of same; and article 7 of the Inter-American Convention on Prevention, Punishment and Eradication of Violence against Women (hereinafter "Convention of Belém do Pará), with prejudice to the children Esmeralda Herrera Monreal and Laura Berenice Ramos Monárrez; and
- c) 5, 8.1 and 25 of the American Convention, in connection with the general obligation to respect and guarantee rights established by article 1(1) and the duty to adopt legislative or other measures as may be necessary to give effect to the rights protected by the treaty, pursuant to article 2 of same, with prejudice to the victims' next of kin.

3. The instant case has been processed in accordance with the provisions of the American Convention and the Rules of Procedure of the Commission, and is submitted before the Court pursuant to article 33 of the Court's Rules of Procedure. A copy of Report 28/07, prepared pursuant to article 50 of the Convention, is annexed to this application.²

4. The Commission considers that the impunity that accompanies the disappearance and later murder of the victims contributes to prolong the suffering caused by the violation of fundamental rights, and that it is the duty of the Mexican State to provide an adequate legal response, to establish the identity of those responsible, to punish them accordingly, and to provide compensation to the victims' next of kin.

5. This case exemplifies the lack of due diligence and the irregularities characterizing the investigations carried out regarding hundreds of disappearances and murders of girls and women since 1993 in the State of Chihuahua, especially in Ciudad Juárez.

II. PURPOSE OF THIS APPLICATION

6. The purpose of this application is to respectfully request that the Court find that:

- a) the Mexican State is responsible for the violation of articles 4 (right to life), 8.1 (right to a fair trial) and 25 (right to judicial protection) of the American Convention, in connection with the general obligations to respect and guarantee

² See Appendix 1, IACHR, Report No. 28/07 (Merits), Cases 12.496, 12.497 and 12.498, *Claudia Ivette González, Esmeralda Herrera Monreal and Laura Berenice Ramos Monárrez*, México, March 9, 2007.

rights provided for by article 1.1 of same, and the duty to adopt domestic legislative or other measures established by article 2 of the treaty, as well as article 7 of the Convention of Belém do Pará, with prejudice to Claudia Ivette González, Esmeralda Herrera Monreal and Laura Berenice Ramos Monárrez;

- b) the Mexican State is responsible for the violation of article 19 (rights of the child) of the American Convention, in connection with the general obligation to respect and guarantee rights provided for by article 1.1 of same, the duty to adopt domestic legislative or other measures established by article 2 of the treaty, and article 7 of the Convention of Belém do Pará, with prejudice to the girls Esmeralda Herrera Monreal and Laura Berenice Ramos Monárrez; and that
- c) The Mexican State is responsible for the violation of articles 5 (right to humane treatment), 8.1 (right to a fair trial), and 25 (right to judicial protection) of the American Convention, in connection with the general obligation to respect and guarantee rights provided for by article 1.1, and the duty to adopt domestic legislative or other measures established by article 2 of the treaty, with prejudice to the mothers and the nuclear family of the victims.

7. Wherefore, the Inter-American Commission requests that the Court order the State to:

- a) carry out, with due diligence, a serious, impartial, and exhaustive investigation, in order to clarify the historical truth of the disappearances and subsequent murders of Claudia Ivette González, Laura Berenice Ramos and Esmeralda Herrera Monreal, and to identify and punish those responsible for these acts;
- b) to carry out, with due diligence, a serious, impartial, and exhaustive investigation in order to establish the responsibility of the government officers who, with their irregular and/or negligent conduct contributed to the lack of clarification of the historical truth of the facts, and the identification and punishment of those responsible, and to impose upon said officers the appropriate criminal, administrative, and civil punishments;
- c) to adopt pecuniary and nonpecuniary measures for the rehabilitation and the compensation of the next of kin of Claudia Ivette González, Laura Berenice Ramos and Esmeralda Herrera Monreal, considering their specific perspective and needs;
- d) to adopt all the legal, administrative, and other measures necessary to prevent similar acts from happening in the future, in fulfillment of the duties of prevention and guarantee of fundamental rights established by the American Convention, especially:
 - 1) to implement an integral and coordinated policy, backed with adequate resources, to guarantee that cases of violence against women are properly prevented, investigated, punished, and their victims compensated;
 - 2) to strengthen institutional capacity to fight down the existing pattern of impunity in cases of violence against women in Ciudad Juárez, through

effective criminal investigations, with consistent judicial follow-up, thus guaranteeing proper sanctions and reparations;

- 3) to continue to adopt public policies and institutional programs to overcome existing stereotypes in Ciudad Juárez regarding the role of women in society, and to promote the eradication of discriminatory sociocultural patterns that prevent women from attaining full access to justice, including training programs for public officials in all branches of the administration of justice and police, as well as integral prevention policies; and
- e) to pay the costs and legal expenses defrayed by the next of kin of the victims for the processing of the case both domestically and before the inter-American system.

III. REPRESENTATION

8. Pursuant to the provisions of articles 22 and 33 of the Rules of Procedure of the Court, the Commission has designated Commissioner Florentín Meléndez and its Executive Secretary Santiago A. Canton as its delegates for the instant case. The Assistant Executive Secretary, Elizabeth Abi-Mershed and the attorneys Marisol Blanchard, Rosa Celorio, Juan Pablo Albán and Fiorella Melzi, specialists of the Executive Secretariat of the IACHR, have been designated as legal counselors.

IV. THE JURISDICTION OF THE COURT

9. Pursuant to article 62(3) of the American Convention, the Inter-American Court is competent to hear any case submitted to it concerning the interpretation and application of the Convention's provisions, if the State Parties in the case recognize or have recognized the Court's jurisdiction.

10. The Court is competent to hear the instant case. The State acceded to the American Convention on March 2, 1981, deposited its instrument of accession on March 24, 1981, and accepted the contentious jurisdiction of the Court on December 16, 1998.

11. Moreover, the Court is competent to hear the instant case by virtue of the fact that the Mexican State deposited its instrument of ratification of the Inter-American Convention on Prevention, Punishment and Eradication of Violence against Women on November 12, 1998.

V. PROCESSING BEFORE THE INTER-AMERICAN COMMISSION³

³ The proceedings described in this section can be found in the record of the case processed before the IACHR. Appendix 5.

A. Separate Processing

1. Petition No. 281/02, Case No. 12.496: Claudia Ivette González

12. Josefina González Rodríguez, mother of the alleged victim, and Rosario Acosta and Jorge Alberto Gaytán, in representation of the non-governmental *organization Red Ciudadana de No Violencia y por la Dignidad Humana* [Non-Violent Citizen Network for Human Dignity] lodged their petition on March 6, 2002.

13. Pursuant to the provisions of article 29 of its Rules of Procedure, the Commission registered the petition under No. 281/02 and went on to carry out its preliminary examination. On May 29, 2002, pursuant to article 30 of its Rules of Procedure, the Commission forwarded the relevant parts of the petition to the State, granting it two months to submit its response.

14. The State, on August 2, 2002, requested an extension to submit its response, which was granted by the Commission until August 29, 2002. On August 30, 2002, the State presented its response to the petition, which was forwarded to the petitioners on September 23, 2002, granting them one month to submit any observations they should consider relevant.

15. On February 24, 2005, the Commission declared petition No. 281/02 formally admissible with respect to articles 2, 4, 5, 7, 8, 11 and 25 of the American Convention, in connection with article 1.1 of same, and with articles 7, 8, and 9 of the Convention of Belém do Pará,⁴ and, resolving to continue examining the merits, opened case No. 12.496.

16. The Commission transmitted its admissibility report to the State and the petitioners in March 18, 2005 communications, granting two months for the parties to submit any additional observations they deemed necessary with respect to the merits of the case. At this time, pursuant to article 48.1.f of the American Convention, the Commission placed itself at the disposal of the parties with a view to reaching a friendly settlement.

17. The petitioners submitted their observations on the merits of the matter on May 16, 2005, which were forwarded to the State on September 30, 2005, granting it two months to submit any comments and observations which it should deem pertinent.

18. The State submitted its observations on the merits in notes OEA-02639 of November 30, 2005 and OEA-02668 of December 5, 2005, whose pertinent parts were forwarded to the petitioners on July 14, 2006.

⁴ See IACHR, Report No. 16/05 (Admissibility), Petition 281/02, *Claudia Ivette González*, México, February 24, 2005; Appendix 2.

19. The Commission requested the petitioners on July 3, 2006 to submit several documents in order to continue with the examination of the merits of the case. Likewise, on July 6, 2006, the Commission requested from the Mexican State a copy of the court file regarding the procedures carried out regarding the disappearance and subsequent death of Claudia Ivette González.

20. In response to the IACHR's instruction of July 7, 2006, the State submitted its observations in note OEA-01843 of August 4, 2006, and requested an extension to submit the required documents. The Commission granted the extension requested by the State on August 11, 2006, granting it one month, taking note of the State's claim that "at this time it does not have legal authorization to transmit, in this stage of the proceedings, the documents concerning preliminary inquiry 27913/01-I". The Commission, on the same date, informed the petitioners regarding the granting of an extension to the State.

21. The petitioners presented additional observations on September 3, 2006, as well as Forensic Psychological Report No. 16/05, issued by a committee of experts, regarding the victim's next of kin. On September 11, 2006, the State submitted additional information in note OEA-02175, which was transmitted to the petitioners on October 11, 2006.

22. The petitioners submitted to the Commission, on October 26, 2006, a copy of the record of the criminal proceedings registered as Case 48/02 and 74/04. Subsequently, on November 10, 2006, the petitioners presented additional observations to the Commission regarding the merits, which were transmitted to the State on December 11, 2006. On this occasion, the Commission also informed the State that a copy of the record of the criminal proceedings registered as Case 48/02 and 74/04 could be found in the office of the Secretariat.

2. Petition No. 282/02, Case No. 12.497: Esmeralda Herrera Monreal

23. The complaint was lodged on March 6, 2002 by Irma Monreal, mother of the alleged victim, and the non-governmental organization *Red Ciudadana de No Violencia y por la Dignidad Humana* [Non-Violent Citizen Network for Human Dignity]

24. Pursuant to the provisions of article 29 of its Rules of Procedure, the Commission registered the petition under No. 282/02 and began its preliminary examination. On May 29, 2002, pursuant to article 30 of its Rules of Procedure, the Commission forwarded the pertinent parts of the petition to the State, granting it two months to submit its response.

25. On August 2, 2002, the State requested an extension to submit its response, which was granted by the Commission until August 29, 2002. The State submitted its response to the petition on August 30, 2002, which was then forwarded to the petitioners on September 23, 2002, granting them one month to present any observations they deemed pertinent.

26. On February 24, 2005, the Commission declared petition No. 282/02 formally admissible with respect to articles 2, 4, 5, 7, 8, 11, 19 and 25 of the American Convention, in connection with article 1.1 of same, and in connection with articles 7, 8, and 9 of the Convention of Belém do Pará⁵; the Commission decided to continue with its examination of the merits, and consequently opened case No. 12.497.

27. On May 17, 2005, the non-governmental organization *Asociación Nacional de Abogados Democráticos AC (ANAD)* [National Association of Democratic Lawyers] joined the proceedings as a co-petitioner.

28. The Commission transmitted its report on admissibility to the State and the petitioners on March 18, 2005, and granted the parties two months to submit any additional observations they should consider necessary regarding the merits of the case. The Commission at this time, pursuant to article 48.1.f of the American Convention, also placed itself at the disposal of the parties with a view to reaching a friendly settlement agreement.

29. In May 18, 2005, June 17, 2005, and July 18, 2005, the petitioners requested thirty day extensions to submit their arguments on the merits. The IACHR granted them a 30 day extension in a July 20, 2005 communication, and informed the State of its decision.

30. The Commission requested, on July 5 2006, from the petitioners, the submission of several documents in order to continue with the examination of the merits of the case. Likewise, on July 6, 2006, the Commission requested the Mexican State to provide a copy of the court record containing the procedures carried out regarding the disappearance and subsequent death of Esmeralda Herrera Monreal. This documentation was not provided by Mexico.

31. On July 20, 2005, and on August 4 and 25, 2005, the petitioners presented their observations on the merits of the case, which were forwarded to the State on July 14, 2006, granting it initially one month to submit any comments and observations it should consider necessary; the deadline was extended to two months in a July 27, 2006 communication.

32. The State submitted its observations in note OEA-02322 of September 27, 2006, and requested an extension to present additional information on the merits. A one-month extension was granted by the Commission on September 29, 2006. The pertinent parts of the information presented by the State on September 27, 2006, were forwarded to the petitioners on October 11, 2006.

33. The petitioners submitted additional observations on the merits on November 10 and 11, 2006, which were forwarded to the State on December 11, 2006.

⁵ See IACHR, Report No. 17/05 (Admissibility), Petition 282/02, *Esmeralda Herrera Monreal*, México, February 24, 2005; Appendix 3.

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34. The State submitted additional information on the merits in note OEA-03012 of December 7, 2006, which was transmitted to the petitioners on December 11, 2006.

35. On March 19, 2007, the non-governmental organization *Comité de América Latina y el Caribe para la Defensa de los Derechos de la Mujer (CLADEM)* [Latin American and Caribbean Committee for the Defense of Women's Rights] joined the case as a co-petitioner.

3. Petition No. 283/02, Case No. 12.498: Laura Berenice Ramos Monárrez

36. The complaint was lodged on March 6, 2002, by Benita Monárrez Salgado, mother of the alleged victim, and the non-governmental organization *Red Ciudadana de No Violencia y por la Dignidad Humana* [Non-Violent Citizen Network for Human Dignity].

37. Pursuant to article 29 of its Rules of Procedure, the Commission registered the complaint under No. 283/02 and continued with its preliminary examination. On May 29, 2002, pursuant to the provisions of article 30 of its Rules of Procedure, the Commission forwarded the relevant parts of the petition to the State, granting it two months to submit its response.

38. On August 2, 2002, the State requested an extension to present its response, which was granted by the Commission until August 29, 2002. On August 30, 2002, the State submitted its response to the petition, which was forwarded to the petitioners on September 23, 2002, granting them one month to submit any observations they should deem necessary.

39. On February 24, 2005, the Commission declared petition 283/02 formally admissible with respect to articles 2, 4, 5, 7, 8, 11, 19 and 25 of the American Convention, in connection with article 1.1 of same, and in connection with articles 7, 8, and 9 of the Convention of Belém do Pará⁶; the Commission decided to continue with the analysis of the merits, and hence opened case No. 12.498.

40. In March 18, 2005 communications, the Commission transmitted its admissibility report to the State and the petitioners, granting the parties two months to submit any additional observations on the merits of the matter that they should consider necessary. At this time, pursuant to article 48.1.f of the American Convention, the Commission placed itself at the disposal of the parties to try to reach a friendly settlement agreement.

41. The petitioners submitted their observations on the merits of the case on May 16, 2005, which were forwarded to the State on September 30, 2005, granting it two months to submit any comments and observations it should consider pertinent.

⁶ See, IACHR, Report No. 18/05 (Admissibility), Petition 283/02, *Laura Berenice Ramos Monárrez*, México, February 24, 2005; Appendix 4.

42. The State presented its observations on the merits in notes OEA-02640 of November 30, 2005, and OEA-02644 of December 1, 2005, whose pertinent parts were forwarded to the petitioners on August 9, 2006.

43. On July 3, 2006, the Commission requested the petitioners to submit several documents in order to continue with the analysis of the merits of the case. Likewise, on July 6, 2006, the Commission requested from the Mexican State a copy of the court record of the procedures carried out with respect to the disappearance and subsequent death of Claudia Ivette González.

44. In response to the IACHR's request of July 7, 2006, the State, in note OEA-01843 of July 7, 2006, submitted its observations and requested an extension to present the required documents. On August 11, 2006, the Commission granted the extension requested by the State, for a period of one month, and taking note of the State's assertion that "at the time it does not have legal authorization to send, at this stage of the proceedings, copies of the record of preliminary investigation 27913/01-I". On this same date, the Commission informed the petitioners regarding the extension granted to the State.

45. The petitioners submitted additional observations on September 3, 2006, as well as Forensic Psychological Report No. 16/05 regarding the victim's next of kin, issued by a committee of experts. On September 11, 2006, the State submitted additional information in note OEA-02175, which was forwarded to the petitioners on October 11, 2006.

46. On October 26, 2006, the petitioners presented to the Commission a copy of the criminal court record registered as case 48/02 and 74/04. Subsequently, on November 10, 2006, the petitioners submitted additional observations to the Commission on the merits of the case, which were forwarded to the State on December 11, 2006. At this time, the Commission also informed the State that a copy of the criminal court record registered as case 48/02 and 74/04 could be found in the office of the Secretariat.

B. Joinder of proceedings

47. On January 30, 2007, the Commission notified the parties of its decision, taken pursuant to the provisions of article 29.1.d of its Rules of Procedure, of joining the three cases and addressing them in a single report on the merits. This decision was made due to the fact that the disappearances and subsequent discovery of the bodies of Claudia Ivette González, Esmeralda Herrera Monreal and Laura Berenice Ramos Monárrez took place within the same area and time frame, and have been jointly investigated by the State, which identified them as the cases of the "cotton field."⁷ In addition, it should be

⁷ On November 6, 2001, the Office of the Attorney General of the State of Chihuahua initiated preliminary inquiry No. 27913/01 to investigate the discovery of eight dead bodies on a property known as "campo algodoner" (cotton field). Three of these bodies were discovered on November 6, 2001, and the other five on November 7, 2001. The three that were found on November 6, 2001 were those of Laura Berenice Ramos, Claudia Ivette González and Esmeralda Herrera Monreal.

noted that the facts occurred within a context of impunity in the face of acts of violence disproportionately affecting women as a group, and which has tended towards recidivism of these acts, thus configuring a pattern of conduct.

48. On March 9, 2007, during its 127th Regular Session, the Commission approved Report No. 28/07 on the merits of cases Nos. 12.496, 12.497 and 12.498, written pursuant to article 50 of the Convention. In this report, the Commission reached the conclusion that:

the Mexican State is responsible for violations of the rights to life, judicial guarantees and judicial protection, enshrined, respectively, in Articles 4, 8.1, and 25 of the American Convention, all in connection with the obligation imposed on the State by Articles 1(1) and 2 of the American Convention, to the detriment of Laura Berenice Ramos, Claudia Ivette González, and Esmeralda Herrera Monreal. The IACHR also concludes that the State violated the rights of the child of Laura Berenice Ramos and Esmeralda Herrera Monreal enshrined in Article 19 of the American Convention, and the right to humane treatment enshrined in Article 5(1) of the same instrument, to the detriment of the next-of-kin of the three victims, all in conjunction with the obligation imposed on the State by Articles 1.1 and 2 of the that treaty. [...] [and that] the State violated the rights of Laura Berenice Ramos, Claudia Ivette González, and Esmeralda Herrera Monreal under Article 7 of the Convention of Belém do Pará.

49. In said report, the Commission made the following recommendations to the Mexican State:

1. To undertake a serious, impartial, and exhaustive investigation of the facts, for the purpose of clearing up the murders of Laura Berenice Ramos, Esmeralda Herrera Monreal, and Claudia Ivette González, and identifying and punishing the persons actually responsible.
2. To carry out a serious, impartial, and exhaustive investigation to determine the responsibilities of public officials for irregularities and negligence committed in the preliminary inquiry into the cases of Laura Berenice Ramos, Esmeralda Herrera Monreal, and Claudia Ivette González, and to punish the persons responsible.
3. To make full reparation to the next-of-kin of Laura Berenice Ramos, Esmeralda Herrera Monreal, and Claudia Ivette González considering their perspective and specific needs.
4. To implement, as a measure of non-repetition, a comprehensive and coordinated state policy, backed by adequate public resources, to guarantee that acts of violence specifically against women are adequately prevented, investigated, punished, and remedied.
5. To strengthen the institutional capacity to fight the pattern of impunity in cases of violence against women in Ciudad Juárez through effective criminal investigations that have consistent judicial follow-up, thereby ensuring adequate punishment and reparation.
6. To continue adopting public policies and institutional programs aimed at restructuring the stereotypes as to women's role in society in Ciudad Juárez and to promote the

eradication of discriminatory sociocultural patterns that impede full access to justice, including programs to train public officials in all branches of the administration of justice and police, and comprehensive prevention policies.

50. The report on the merits was transmitted to the State on April 4, 2007, granting it two months to adopt the recommendations. On April 18, 2007, in accordance with article 43.3 of its Rules of Procedure, the Commission notified the representatives of the victims and their next of kin regarding the issuance of the report on the merits and its transmission to the State, and requested that they state their position regarding submitting the case to the Inter-American Court.

51. On May 4 and 29, 2007, the victims' and their next of kin's representatives stated their interest in having this case submitted before the Court.

52. On June 4, 2007, the State submitted a first report on compliance with the recommendations made by the Commission, and requested an eighteen-month extension to fully implement them. At this time the State expressly and irrevocably accepted that the granting of this extension had suspended the running of the time period to take the case before the Court.

53. On June 28, 2007, the representatives submitted their observations on the State's report of June 4, 2007, regarding the implementation of the recommendations contained in the report on the merits.

54. After examining the State's proposal for the implementation of the recommendations, the Commission decided, on July 3, 2007, to grant a four-month extension, starting on that same date, i.e., until November 3, 2007; on this latter date the elapsing of the time period for the submission of the matter before the Court, established by article 51.1, began once more, with a new, November 4, 2007, deadline.

55. On July 19, 2007, in the 128th Regular Session of the Commission, a work meeting was convened by the Commission at the Mexican State's request, with the attendance of both parties, in order to discuss progress regarding compliance with the recommendations made in the report on the merits. In this meeting, the State proposed to the next of kin of the victims the initiation of negotiations with a view to reach a friendly settlement; this proposal was refused by the petitioners, who at the meeting reiterated their wish that the case be submitted before the Inter-American Court.

56. On August 22, 2007, the State presented a new progress report regarding compliance with the recommendations made in Report 28/07. In its report, the State informed the Commission regarding compliance with recommendations 1 and 2, but omitted detailed information regarding recommendations 3,4,5, and 6. The State's report was forwarded to the representatives of the victims and their next of kin.

57. The State submitted a final report on October 11, 2007, regarding the status of compliance with the recommendations made by Report 28/07. In its report, the State referred to compliance with recommendations 1, 3, and 5, but omitted any detailed

information regarding recommendations 2, 4, and 6. The State also requested a second extension, this time for 12 months. This report by the State was also forwarded to the representatives of the victims and their next of kin.

58. On October 25, 2007, the representatives of the victims and their next of kin filed a brief with observations on the final report of the State regarding compliance with the recommendations made by the report on the merits, in which they reiterated their interest in having the case submitted to the Inter-American Court.

59. On November 4, 2007, the Inter-American Commission, after examining the reports presented by the State on its compliance with the Commission's recommendations, as well as the briefs with observations presented by the representatives of the victims and their next of kin, decided to submit the instant case before the Inter-American Court, pursuant to the provisions of articles 51(1) of the Convention and 44 of its Rules of Procedure.

C. Precautionary measures

60. On February 11, 2002, Miriam García Lara and Blanca Guadalupe López, spouses of Víctor Javier García Uribe and Gustavo González Mesa, who in turn were suspects in the investigation of the murders of Laura Berenice Ramos, Claudia Ivette González and Esmeralda Herrera Monreal, requested that the Commission grant precautionary measures "for them and their next of kin," as well as for Lic. Sergio Dante Alcaraz, defense attorney for Víctor Javier García Uribe, and his next of kin.

61. The petitioners claimed that their husbands were arrested without a warrant, with violence, and with death threats against the petitioners and their next of kin. They contended that both Víctor Javier García Uribe and Gustavo González Meza were tortured to make them confess their guilt regarding the facts. In addition, they held that the case investigation, illegal and unfair, was rife with contradictions; these irregularities had been discovered by the defense attorney for Gustavo González Mesa, Lic. Mario Escobedo, who had lodged a complaint regarding them before his murder on February 6, 2002, which took place after he had received death threats against him and his father Mario Escobedo Salazar. The petitioners alleged that Lic. Sergio Dante Alcaraz had also received death threats.

62. In an April 1, 2002 communication, the Commission requested additional information from the petitioners requesting precautionary measures.⁸ On September 6, 2002, the petitioners, with the support of the organization *Comisión Mexicana de Defensa y Promoción de los Derechos Humanos* [Mexican Commission for the Defense and Promotion of Human Rights] provided specific information regarding the grave and pressing situation of Miriam García Lara, Guadalupe López Ávalos, Sergio Dante Alcaraz, Víctor Javier García Uribe and Gustavo González Meza.

⁸ Specifically, updated information was requested regarding the seriousness and urgency of the situation; if the acts of intimidation and threats had been reported to the Mexican authorities; the response of State officials to the reports, if there had been any reports, and if there were any other persons similarly affected, in addition to Miriam García Lara and Blanca Guadalupe López.

63. On September 10, 2002, the Commission granted precautionary measures to Miriam García Lara and Guadalupe López Ávalos, considering that they had been threatened for having publicly denounced the alleged violations suffered by their jailed spouses. In addition, the Commission granted precautionary measures for Sergio Dante Alcaraz, because he had received death threats for providing his services to Gustavo González Meza and Víctor Javier García Uribe.

64. On February 11, 2003, the Commission increased the scope of the precautionary measures, to protect Víctor Javier García Uribe and the next of kin of the existing beneficiaries of the measures (MC 383-02).

65. In a June 18, 2004 communication, the IACHR extended the period of precautionary measures ordered in favor of Miriam García Lara. The petitioners requested in subsequent communications that the precautionary measures be kept in place, even after Víctor Javier García Uribe, on July 14, 2005,⁹ was found not guilty of the charges made against him. Mr. Gustavo González Meza was found dead in his cell on February 8, 2003¹⁰; Lic. Sergio Dante Alcaraz was himself murdered on January 25, 2006, under circumstances that have yet to be clarified.

D. Request for provisional measures

66. On January 31, 2006, the Inter-American Commission, in accordance with articles 63.2 of the American Convention and 25 of the Court's Rules of Procedure, requested provisional measures from the Inter-American Court, to the end that Mexico should carry out the necessary actions to protect the life and physical integrity of Javier García Uribe, Miriam García Lara, and of their legal representatives.

67. In a February 2, 2006 ruling, the Inter-American Court, considering, *inter alia*, that "the phrase 'a case not yet submitted to the Court' contained in Article 63(2), last paragraph, of the American Convention implies that there must be at least a slight possibility for the matter originating the request for provisional measures to be submitted to the contentious jurisdiction of the Court," and that the Commission had informed the Court that "this 'matter has not yet been classified as a request pursuant to the terms of Articles 44 and 46 to 48 of the Convention'," decided not to process the request for provisional measures.

⁹ Official communication No. 794 issued by the clerk of the Fourth Criminal Chamber to the Judge of the Third Criminal Court, Ciudad Juárez, Decision 474/04, Annex 83, notifies of acquittal of Víctor Javier García Uribe, alias "El Cerillo" ["the Match"].

¹⁰ The petitioners of precautionary measures stated that Mr. Gustavo González Meza had been under surgery in the prison's medical center the previous Thursday, to treat a hernia caused by the torture he suffered in the zone of his genitals and that on Friday he had spoken with his mother-in-law Blanca Ávalos to inform her that everything had gone well and that he was returning to his cell; however, a few hours later he was dead; the circumstances of his death, to date, have not been properly clarified.

VI. GROUNDS IN FACT

A. General context: Violence against women in Ciudad Juárez and impunity

68. Ciudad Juárez has become a focus of attention of both the national and international communities because of the particularly critical situation of violence against women which has prevailed since 1993, and the deficient State response to these crimes. In the instant cases, the State did not question the allegations of the petitioners pointing to the existence of serious violence against women in Ciudad Juárez, which has been denounced nationally and internationally. It did not question, either, the existence of irregularities in the investigations of the disappearance and subsequent death of women in this area, at the time of the facts.

69. The aforementioned situation has been documented by a wide range of international agencies and non-governmental organizations from 1993 to date. It was documented in 2003 by the Rapporteurship on the Rights of Women of the Inter-American Commission (hereinafter "the Rapporteurship on the Rights of Women" or simply "the Rapporteurship"), following the Rapporteur's visit to Ciudad Juárez in February, 2002. In its report on the results of the visit, the Commission stressed that:

[b]oth the State and non-state sectors reported a significant number of killings characterized as multiple or "serial" in nature -- fitting a pattern with respect to the circumstances. The victims of these crimes have preponderantly been young women, between 15 and 25 years of age. Some were students, and many were maquila workers or employed in local shops or businesses. A number were relative newcomers to Ciudad Juárez who had migrated from other areas of Mexico. The victims were generally reported missing by their families, with their bodies found days or months later abandoned in vacant lots or outlying areas. In most of these cases there were signs of sexual violence, abuse, torture or in some cases mutilation.¹¹

70. During the Rapporteurship's visit, the authorities of Ciudad Juárez provided information regarding the murder of 268 women and girls since 1993. The same authorities also provided information regarding more than 250 cases of reports to the police on the disappearance of persons, filed during this period, and which have yet to be solved.

71. The Commission confirmed that, although the situation of women in Ciudad Juárez has many commonalities with that of other cities of Mexico and the region in general, it also presents certain important differences.¹² First, there was an extraordinary increase in the rate of homicides of women in 1993, and since then has continued to be high.¹³ Second, the number of homicides of women compared to that of men in Ciudad

¹¹ IACHR, *The Situation of the Rights of Women in Ciudad Juárez, Mexico: The Right to Be Free from Violence and Discrimination*, OEA/Ser.L/V/II.117, March 7, 2003, para. 44, Annex 1.

¹² IACHR, *The Situation of the Rights of Women in Ciudad Juárez, Mexico: The Right to Be Free from Violence and Discrimination*, OEA/Ser.L/V/II.117, March 7, 2003, para. 44, Annex 1.

¹³ IACHR, *The Situation of the Rights of Women in Ciudad Juárez, Mexico: The Right to Be Free from Violence and Discrimination*, OEA/Ser.L/V/II.117, March 7, 2003, para. 44, Annex 1.

Juárez, is considerably higher than that of cities under similar conditions, and than the national average.¹⁴ Third, the extremely brutal circumstances of many of the murders have allowed for attention to focus on the prevailing situation in Ciudad Juárez.¹⁵

72. Likewise, the Commission verified that the response of authorities to these crimes has been notably deficient.¹⁶ First, the great majority of the murders remained unpunished; according to information provided by the State, approximately 20% had led to trials and convictions.¹⁷ The Commission also observed that the investigations of these murders and other crimes were rife with irregularities and were characterized by their slowness.¹⁸

73. The Commission noted that the failures in the State's response were documented in 1998 by the *Comisión Nacional de Derechos Humanos de México* [National Human Rights Commission of Mexico]¹⁹ which issued a recommendation addressing the insufficient response of public authorities to the murders, above all in the spheres of public safety and justice, in the irregularities plaguing their investigation, and in delays in the processing of cases.²⁰ The Commission highlighted in its report that said recommendation did not prompt institutional follow-up to guarantee compliance with the measures, since most of the murders at the time of the report continued to go unpunished, and no public official was found responsible for the failures noted. The Commission observed that "[t]here is, in this sense, a pattern of efforts that are initiated but never fully realized, and therefore fail to produce a significant impact in diminishing violence against women,"²¹ and that "impunity for violence against women remains the general practice rather than the exception."²²

¹⁴ IACHR, *The Situation of the Rights of Women in Ciudad Juárez, Mexico: The Right to Be Free from Violence and Discrimination*, OEA/Ser.L/V/II.117, March 7, 2003, para. 44, Annex 1.

¹⁵ IACHR, *The Situation of the Rights of Women in Ciudad Juárez, Mexico: The Right to Be Free from Violence and Discrimination*, OEA/Ser.L/V/II.117, March 7, 2003, para. 44, Annex 1.

¹⁶ IACHR, *The Situation of the Rights of Women in Ciudad Juárez, Mexico: The Right to Be Free from Violence and Discrimination*, OEA/Ser.L/V/II.117, Doc. 44, March 7, 2003, para. 4, Annex 1.

¹⁷ IACHR, *The Situation of the Rights of Women in Ciudad Juárez, Mexico: The Right to Be Free from Violence and Discrimination*, OEA/Ser.L/V/II.117, Doc. 44, March 7, 2003, paras. 4 and 81, Annex 1.

¹⁸ IACHR, *The Situation of the Rights of Women in Ciudad Juárez, Mexico: The Right to Be Free from Violence and Discrimination*, OEA/Ser.L/V/II.117, Doc. 44, March 7, 2003, para. 136, Annex 1.

¹⁹ The National Commission on Human Rights issued, in 1998, its Recommendation 44/98, Annex 4, based on an investigation of the Mexican State's response to 36 cases of murders of women, according to reports both of State representatives and non-state entities with respect to irregularities in the handling of the cases of the murders of women. The report's recommendations were based on a careful examination of the case files and the procedures carried out. The report contains recommendations for specific measures to correct the shortcomings identified and to bring to account those responsible.

²⁰ National Commission for Human Rights, Mexico, Recommendation 44/98, Annex 4.

²¹ IACHR, *The Situation of the Rights of Women in Ciudad Juárez, Mexico: The Right to Be Free from Violence and Discrimination*, OEA/Ser.L/V/II.117, Doc. 44, March 7, 2003, para. 75, Annex 1.

²² IACHR, *The Situation of the Rights of Women in Ciudad Juárez, Mexico: The Right to Be Free from Violence and Discrimination*, OEA/Ser.L/V/II.117, Doc. 44, March 7, 2003, para. 135, Annex 1.

74. In this regard, the Commission stressed in its report the duty of the Mexican State of applying due diligence with respect to these crimes, because an adequate investigation provides clarification of the facts and the foundation required to then comply with the duty to prosecute and punish the perpetrators. Second, because the vast majority of the crimes presently at issue have yet to reach the stage of conviction and punishment.²³ The commission issued a series of recommendations to the State, including measures to improve the application of due diligence on the part of the State to investigate, prosecute and punish violence against women in Ciudad Juárez and overcome impunity.²⁴

75. Likewise, an array of United Nations international agencies and civil society organizations have strongly spoken on the gravity of the problem of violence against women in Ciudad Juárez and the general impunity existing regarding these facts.²⁵ The Committee on the Elimination of Discrimination against Women issued a report in 2005 stating that:

[t]he authorities' response to the murders, disappearances and other forms of violence against women has been extremely inadequate, especially during the early 1990s, and even the Government accepts that there were errors and irregularities during that period. [...] However, in the most recent cases, despite evidence of an increased awareness of the seriousness of the facts, the state of the investigations is not entirely clear, and there are questions about the effectiveness of the legal process.²⁶

76. The Special Rapporteur on Violence against Women, Its Causes and Consequences, Yakin Ertürk, stated that during 2006, "the majority of cases remain unsolved and the perpetrators continue to enjoy impunity [...] The failure to convict and curb the murders has been to a large part the result of extremely poor, indifferent and

²³ IACHR, *The Situation of the Rights of Women in Ciudad Juárez, Mexico: The Right to Be Free from Violence and Discrimination*, OEA/Ser.L/V/II.117, Doc. 44, March 7, 2003, para. 134, Annex 1.

²⁴ IACHR, *The Situation of the Rights of Women in Ciudad Juárez, Mexico: The Right to Be Free from Violence and Discrimination*, OEA/Ser.L/V/II.117, Doc. 44, March 7, 2003, pp. 51-55, Annex 1.

²⁵ United Nations, Committee on the Elimination of Discrimination against Women, *Report on Mexico produced by the Committee on the Elimination of Discrimination against Women under article 8 of the Optional Protocol to the Convention, and reply from the Government of Mexico*, CEDAW/C/2005/OP.8/MEXICO, January 27, 2005, Annex 3b; United Nations, *Informe de la Comisión de Expertos Internacionales de la Organización de las Naciones Unidas, Oficina de las Naciones Unidas contra la Droga y el Delito, sobre la Misión en Ciudad Juárez, Chihuahua, México*, United Nations Office on Drugs and Crime, November 2003, Annex 3a; United Nations, *Report of the Special Rapporteur on Violence against Women, Its Causes and Consequences, Yakin Ertürk*, Integration of the Human Rights of Women and Gender Perspective: Violence against Women, Mission to Mexico E/CN.4/2006/61/Add.4, January 13, 2006, Annex 3c; United Nations, *Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions*, E/CN.4/2000/3, Add.3, Annex 3d; United Nations, *Report of the Special Rapporteur on the Independence of Judges and Lawyers*, E/CN.4/2002/72/Add.1, Annex 3e; Amnesty International, *Mexico: Intolerable Killings: 10 Years of Abductions and Murder of Women in Ciudad Juárez and Chihuahua*, AMR 41/027/2003, Annex 6, and others.

²⁶ United Nations, Committee on the Elimination of Discrimination against Women, *Report on Mexico produced by the Committee on the Elimination of Discrimination against Women under article 8 of the Optional Protocol to the Convention, and reply from the Government of Mexico*, CEDAW/C/2005/OP.8/MEXICO, January 27, 2005, para. 40.

negligent investigations by the authorities of the State of Chihuahua, who have jurisdiction over these cases [...]"²⁷

77. A Report of the Commission of International Experts of the United Nations, prepared by an independent commission of experts to study the murders of Ciudad Juárez, states that social violence in the city is due to several factors, together with the growth of organized crime, of "a scope of action and complex nature, mostly associated with illegal drug trafficking. The murders of women in Ciudad Juárez must then be placed within the context of this pathological social framework, within which individuals interact perceiving an environment of relative impunity surrounding them."²⁸

78. In a series of hearings before the Commission, and in documents issued by state agencies, the Mexican State acknowledged in general the seriousness of violence against women in Ciudad Juárez,²⁹ describing the problem as follows:

[t]he Government of Mexico recognizes the problem in Ciudad Juárez. It identifies it as a situation emerging from a society undergoing profound change, in which conflicts related to violence, particularly violence against women, become more acute. The phenomenon of the homicides cannot be observed merely as a deficiency in the pursuit of justice, but as the convergence of different causes which require solution through comprehensive strategies covering all aspects. The solution of the problem in Ciudad Juárez is a priority.³⁰

79 The State described Ciudad Juárez as a border city next to the United states, where it is "an easy target for narcotics trafficking, money laundering, and prostitution, among other illegal conducts. This convergence of phenomena of a social, economic, and criminal character make the city a particularly complex place characterized by the tearing of social fabric, in such a way that violence against women is an important problem."³¹

²⁷ United Nations, *Report of the Special Rapporteur on violence against women, its causes and consequences, Yakin Ertürk*, Integration of the Human Rights of Women and Gender Perspective: Violence against Women, Mission to Mexico E/CN.4/2006/61/Add.4, January 13, 2006, paras. 41-42.

²⁸ United Nations, *Informe de la Comisión de Expertos Internacionales de la Organización de las Naciones Unidas, Oficina de las Naciones Unidas contra la Droga y el Delito, sobre la Misión en Ciudad Juárez, Chihuahua, México* [Report of the Commission of International Experts of the United Nations Office on Drugs and Crime on the Mission to Ciudad Juárez, Chihuahua, Mexico], November 2003, Annex 3a.

²⁹ IACHR, Thematic Hearing, 126th Session, *General Situation of Women in Ciudad Juárez*, October 23, 2006; IACHR, Thematic Hearing, 121st Session, *Situation of the Rights of Women in Ciudad Juárez and Chihuahua*, October 21, 2004; IACHR, Thematic Hearing, 118th Session, *Follow-up on the Report of the IACHR on the Situation of Violence and Discrimination against Women in Ciudad Juárez, Mexico*, October 20, 2003; first three reports of the Office of the Special Prosecutor for Attention to Crimes Related to the Homicides of Women in the Municipality of Juárez, Chihuahua (June, 2004, October 2004, January 2005).

³⁰ *Noveno Informe del Gobierno de México a la Comisión Interamericana de Derechos Humanos sobre la Situación de las Mujeres en Ciudad Juárez (agosto-septiembre del 2003)* [Ninth Report of the Government of Mexico to the Inter-American Commission on Human Rights on the Situation of Women in Ciudad Juárez (August-September 2003)], 118th Regular Session of the IACHR.

³¹ *Noveno Informe del Gobierno de México a la Comisión Interamericana de Derechos Humanos sobre la Situación de las Mujeres en Ciudad Juárez (agosto-septiembre del 2003)*, 118th Regular Session of the IACHR.

Representatives of the State stated to the Commission that a pattern of irregularities affected the investigation of these cases, including a deficient preservation of the crime scenes, the lack of a method of investigation, the lack of forensic laboratory work, and the lack of evidence for the older cases.³²

80. After six years, the next of kin of the victims have not been able to obtain a serious and complete investigation or explanation, nor has the guilt of the perpetrators, or the responsibility of the public officials who failed in their duties, been established.

B. The disappearance and death of Claudia Ivette González, and the subsequent investigation³³

81. Claudia Ivette González, 20 years of age and employed in a maquiladora [in-bond factory] disappeared on October 10, 2001.³⁴ That day, Claudia Ivette González left for work at 3:15 p.m. and never returned home. On October 12, 2001, Claudia Ivette González's mother reported her as lost to the authorities, who responded that at least 72 hours needed to transpire from the disappearance for an investigation to be initiated.³⁵

82. Several clues emerged from the depositions of Mayela Banda González, sister of the victim, regarding where to look for Claudia Ivette González, but they were not pursued by the authorities. The only document to be found in the file is a Missing Person Report,³⁶ which was sent to the Chief of the State Judicial Police, in the Northern Zone, requesting an investigation to clarify the facts. At no other time did the Commander of the State Judicial Police, or the judicial agents under his orders, state their intention to start any search, nor to interview persons near to the victim, or to carry out any kind of investigation to find her alive.³⁷ Between the report of her disappearance and the discovery of her body, the only contact of the next of kin of the victim with the authorities were two telephone calls from the Special Prosecutor's Office, before Claudia Ivette's body was found, asking them if they had any news.

³² IACHR, Thematic Hearing, 126th Session, *General Situation of Women in Ciudad Juárez*, October 23, 2006; IACHR, Thematic Hearing, 118th Session, *Follow-up on the Report of the IACHR on the Situation of Violence and Discrimination against Women in Ciudad Juárez, Mexico*, October 20, 2003.

³³ Los hechos relatados en la presente sección, respecto de los cuales la Comisión al momento no aporta prueba documental, serán oportunamente acreditados a través de la prueba testimonial y pericial ofrecida *infra*, párrafos 304 y 305. The Commission at this time does not offer documentary evidence regarding the facts described in this section, but shall offer evidence *infra*, through witness and expert testimony, paras. 304 and 305.

³⁴ Missing Person Report No. 234/2001 regarding Claudia Ivette González, Annex 8; Appearance of Mayela Banda González, sister of the victim, October 12, 2001, Annex 8.

³⁵ Amnesty International, *Mexico: Intolerable killings: 10 years of abductions and murder of women in Ciudad Juárez and Chihuahua*, August 11, 2003 AI: AMR 41/026/2003. Available at: <http://web.amnesty.org/library/Index/ESLAMR410262003?open&of=ESL-MEX>, Annex 6.

³⁶ Official Communication with Missing Person Report No. 589/01 sent by the Coordinator of the Program for Attention to Crime Victims to the Chief of the Judicial Police of the State, northern zone, September 25, 2001, Annex 10.

³⁷ Communication from the petitioners, dated September 2006, IACHR case file, Appendix 5.

83. The day that the next of kin reported the victim's disappearance, they told the authorities that two weeks back Claudia Ivette González had told her friend that she had been harassed by two policemen driving a camper (pick-up trucks used by the municipal police) outside her workplace and gave the *Subagente* [assistant detective] the license plate number.³⁸ According to the next of kin of the victim, this information was never followed up on, and judicial agents refused to investigate this aspect of the case. In addition, several testimonies were received, but they were never considered during the investigation and were not confronted pursuant to articles 2, 110, and 120 of the Code of Criminal Procedure of the State of Chihuahua (hereinafter "CPPE" for its acronym in Spanish).

84. Between November 6 and 7 of 2001, a search and collection of evidence was carried out at the site where the bodies had been found. In total, 25 evidentiary items were collected, as well as samples of deep earth from the place where the bodies were found; photographs were taken of the findings and of the removal of the bodies, and of the finding and collection of evidence.³⁹ The Commission, in its own proceedings, did not receive any information regarding the forensic science procedures carried out in connection with the evidence found at that time, nor of their results.

86. The mother of the victim stated that four weeks after the disappearance of her daughter, "when she was handed over to me, all I received was a bag of bones." It seemed strange that in less than a month's time her body had corrupted so. She stated that the prosecutor told her that "this was possible, since the body could have been damaged by animals, rain, or earth." She moreover said that ever since the authorities handed over her daughter's body to her, they disassociated themselves from the case, considering it closed.⁴⁰

86. On February 24, 2002, the next of kin of women that had disappeared searched the place where the bodies had been found, which had not been sealed off, and found the trousers that Claudia Ivette González had been wearing on the day of her disappearance, as well as sundry items of clothing and other objects.⁴¹ The next of kin immediately notified the Special Prosecutor, and they carried out the removal of the item of

³⁸ Press report in the *Norte* newspaper of November 6, 2005, titled "*Impunes crímenes de las ocho mujeres*" [Murders of the Eight Women Go Unpunished], Annex 7.

³⁹ Official Record of Removal of Unidentified Body No. 188/2001, by the Office of the Attorney General of the State of Chihuahua, of November 6, 2001, Annex 35; Official Record of Removal of Unidentified Body No. 189/2001, by the Office of the Attorney General of the State of Chihuahua, of November 6, 2001, Annex 36, and Official Record of Removal of Unidentified Body No. 190/2001, by the Office of the Attorney General of the State of Chihuahua, of November 6, 2001, Annex 37.

⁴⁰ Transcript of testimony of the mother of the victim, in petitioners' communication regarding Petition 12.496, received by the IACHR on March 6, 2002, IACHR case file, Appendix 5.

⁴¹ Official record of the collection of evidence carried out by the next of kin of the victims on February 24, 2002, signed by Lic. Mayte Espinoza, agent of the Office of the Public Prosecutor, Annex 63.

clothing for custody. A second search was organized on February 25, 2002,⁴² in which Claudia Ivette González's electoral ID and her work ID were found, as well as some *Vales Despensa* [store vouchers] of the *maquila* and an automatic teller receipt from Banco Bital; these documents were seen by the mother of Laura Berenice Monárrez, who stated that they had belonged to Claudia Ivette González.⁴³ The official inventory of items of clothing and objects consists of sundry items of clothing, nine shoes, and eleven diverse objects, including the license plate belonging to a border vehicle and a provisional municipal permit.⁴⁴ However, there is no indication in the record regarding expert tests, or some other procedure to identify the owner of the vehicle to which the found license plate belonged.

87. On November 14, 2001, the forensic results regarding blood type, semiological and toxicological tests were presented, with the conclusion that no results were obtained due to "the lack of hematic tissue and time elapsed since death."⁴⁵

88. On November 15, 2001, Claudia Ivette González was identified based on testimony of her sister, Mayela González,⁴⁶ since the authorities had not been able to identify her using scientific methods. This testimony affirmed that Claudia Ivette González had dental work dating several years, consisting of a molar filling.

89. Regarding DNA tests, although the sample was taken in November 2001, the results were submitted two years later and it was not possible to obtain complete genetic profiles.⁴⁷ The authorities had previously informed them that there were no reagents available, and later, that the tests had been lost.

90. The reports from Criminology did not establish the cause of death. These reports stated the existence of a high degree of probability that the same person or

⁴² Official record of the collection of evidence carried out by the next of kin of the victims, the Office of the Public Prosecutor, and the Technical Office for Expert Services, on February 25, 2002, signed by Lic. César Octavio Rivas Ávila, agent of the Office of the Public Prosecutor, Annex 64.

⁴³ Deposition of Ms. Benita Monárrez Salgado on July 23, 2006 before the agent of the Office of the Public Prosecutor, attached to the Office of the Comptroller of Internal Affairs, Northern Zone, Annex 84.

⁴⁴ Official record of the collection of evidence carried out by the next of kin of the victims on February 24, 2002, signed by Lic. Mayte Espinoza, agent of the Office of the Public Prosecutor, Annex 63, and Official Record of the collection of evidence carried out by the next of kin of the victims, the Office of the Public Prosecutor, and the Technical Office for Expert Services, on February 25, 2002, signed by Lic. César Octavio Rivas Ávila, agent of the Office of the Public Prosecutor, Annex 64.

⁴⁵ Official communication No. 1335/01 of November 14, 2001, stating that tests to establish blood type of unidentified deceased female No. 188/01 could not be performed, Annex 48; and Official communication No. 1339/2001 of November 14, 2001, stating that tests to establish blood type of unidentified deceased females Nos. 189 and 190 could not be performed, Annex 49.

⁴⁶ Deposition of Mayela Banda González identifying the body of Claudia Ivette González, dated November 15, 2001, Annex 50.

⁴⁷ Official communication No. 34196 of September 20, 2002, results of the genetic comparison tests, *inter alia*, to establish blood relationships regarding bodies 188/01, 189/01 and 190/01; Addition to report on genetic comparison tests, *inter alia*, to establish blood relationships regarding bodies 188/01, 189/01 and 190/01, dated October 8, 2002, Annex 72.

persons perpetrated the crimes at the scene where the findings were made, without explaining how this conclusion was reached.⁴⁸ An investigation was never started that integrated the eight cases in order to establish links among them.

91. The charges brought by the *Procuraduría General de Justicia del Estado* [Office of the Attorney General of the State] centered on two persons who had no evident connection with the facts: Gustavo González Meza and Víctor Javier García Uribe. The arrest of these two persons was arbitrary and their confessions of guilt were obtained under torture; in this respect, the Commission has already had the occasion to state that:

during her visit, the Special Rapporteur received two distinct sets of medical certificates. The set provided by the PGJE was prepared by the Department of Legal Medicine on November 11, 2001, at 02:40 and 02:45 hours, respectively. The certificate relative to González indicates no external signs of violence, while that relative to García refers to a small zone of equimosis on his right arm that would heal in less than 15 days. The other set of certificates, prepared by the Medical Unit of the detention center at 21:00 hours on November 11, 2001, attested in the case of González to “múltiples quemaduras en genitales” and areas of equimosis in the area of the thorax and edema. In the case of García, it refers to “[m]últiples quemaduras de 1er grado en genitales” and marks on his right arm. Subsequent reports indicate that the allegations of torture were denounced both to the authorities and publicly, but that the judiciary rejected the claims with respect to coercion as unsubstantiated. It was also reported that the person in charge of expert services at the PGJE at the time had resigned because of pressure to charge the results of certain expert tests to inculcate the two men detained. The death of Mr. González on February 8, 2003, while in his cell, under circumstances that remain under investigation, has generated renewed expressions of concern with respect to this criminal process.⁴⁹

92. According to the victim’s next of kin, the officers assigned to the case, named Miramontes and Carlos Ramírez, remarked to the families that it was “only for show” and that there were contradictions in the identification of the body of Claudia Ivette González. In July, 2005, Víctor Javier García Uribe was set free and found not guilty of the murders for lack of evidence.⁵⁰

⁴⁸ Field Criminology Report of February 2, 2002, conveyed by Communication No. 0184 of February 6, 2002, signed by Lic. Héctor Enrique Infante Chávez, Annex 62.

⁴⁹ IACHR, *The Situation of the Rights of Women in Ciudad Juárez, Mexico: The Right to Be Free from Violence and Discrimination*, OEA/Ser.L/V/II.117, Doc. 44, March 7, 2003, Chapter IV, para. 50, Annex 1.

⁵⁰ Official communication No. 794 issued by the clerk of the Fourth Criminal Chamber to the Judge of the Third Criminal Court, Ciudad Juárez, Decision 474/04, Annex 83; Press release No. 136/05 of the *Comisión para Prevenir y Erradicar la Violencia contra las Mujeres en Ciudad Juárez (CPEVMCJ)* [Commission for the Prevention and Eradication of Violence against Women in Ciudad Juárez] of July 14, 2005: *La Comisión para Juárez pide una investigación expedita para dar con los responsables de los crímenes de mujeres del Campo Algodonero* [The Commission for Juárez Requests an Expedited Investigation to Find those Responsible of the Murders of *Campo Algodonero* (Cotton Field)]. Also see press report in the online newspaper “*noticiasenlinea.com*”, of July 15, 2005, titled “*Liberan a El Cerillo; quienes son los culpables*” [Set El Cerillo (the Match) Free: Who Are the Guilty Parties], Annex 7.

93. In 2003, the Procuraduría General de la República [Office of the Attorney General of the Republic] (hereinafter "PGR" for its Spanish acronym) assumed jurisdiction over 14 case investigation files of homicides of women and girls, including the file of Claudia Ivette González, to the end of investigating their possible relationship to organized crime.⁵¹ After three years of holding the files of the *campo algodono* [cotton field] and *Cristo Negro*,⁵² the PGR returned the files to the Office of the Attorney General of the State of Chihuahua, having concluded that there was no link between the offenses and organized crime, while no progress was made with any of the investigations.⁵³

94. On August 17, 2006, the Ambassador of the United States to Mexico spoke to the press regarding the arrest of a suspect of the crimes of *campo algodono*.⁵⁴ The next of kin learned of this through the press and not from the authorities. In addition, on August 25, 2006, a meeting was held between the Office of the Attorney General of the State with mothers of victims of *campo algodono* and *Cristo Negro*, in which they were only informed of the existence of new clues regarding the facts, but without specifying what they were.⁵⁵

95. On August 21, 2006, the Office of the Attorney General of the State issued an official report on the investigations for the press.⁵⁶ The most important part of this report is the information on the scientific identity of the victims of *campo algodono* and

⁵¹ See transcript of the April 26, 2005 appearance of Lic. Patricia González Rodríguez, Attorney General of the State of Chihuahua, before the Special Committee of the Chamber of Deputies for Oversight and Follow-up of the Investigations of the Femicides in the Mexican Republic and Related Pursuit of Justice, prepared by the Office of the General Director of Parliamentary Record. The petitioners held, during the processing before the Commission, that in April, 2003, the Office of the Attorney General of the Republic, through the Office of the Assistant Secretary for Investigation Specialized in Organized Crime, stated that it was investigating the possibility of the Campo Algodonero and Cristo Negro victims' organs being trafficked, and had arrested three suspects. However, on July 16 of that same year, the Office of the Attorney General of the Republic had to withdraw charges and free the detainees for lack of evidence; IACHR case file, Appendix 5.

⁵² The bodies of six women were discovered at the Cristo Negro site, between November 3, 2002 and February 3, 2003. For fuller details, see: United Nations, Committee on the Elimination of Discrimination, against Women, *Report on Mexico produced by the Committee on the Elimination of Discrimination against Women under article 8 of the Optional Protocol to the Convention, and reply from the Government of Mexico*, CEDAW/C/2005/OP.8/MEXICO, January 27, 2005, para. 93; United Nations, *Informe de la Comisión de Expertos Internacionales de la Organización de las Naciones Unidas, Oficina de las Naciones Unidas contra la Droga y el Delito, sobre la Misión en Ciudad Juárez, Chihuahua, México*, United Nations Office on Drugs and Crime, November 2003, p. 6, Annex 3a.

⁵³ Report published in "*El Diario*" [The Daily] on June 29, titled "*Devuelve PGR casos de 14 asesinadas*" [The PGR returns the cases of the 14 murdered women], Annex 7.

⁵⁴ Press release of the Embassy of the United States in Mexico of August 17, 2006: *Importante avance en la investigación de los asesinatos de mujeres en Ciudad Juárez* [Major Break in the Investigation into the Unsolved Murders of Women in Ciudad Juárez].

⁵⁵ A few days before the Office of the Attorney General of the State had informed the Chihuahuan press on new arrests and the existence of new lines of investigation, and had partially acknowledged irregularities in prior investigations. In this respect see report published in the daily newspaper *La Jornada* of August 22, 2006, titled "*Falsean datos de tres feminicidios en Juárez*" [Data on Three Femicides in Juárez Was Faked], Annex 7.

⁵⁶ Report published by *El Diario* newspaper on August 21, titled "*Reporte de la PGJE sobre asesinatos de mujeres*" [PGJE Report on Women's Murders], Annex 7.

Cristo Negro, which had been arbitrarily assigned to three of them.⁵⁷ The correction in the identification was made by the *Equipo Argentino de Antropología Forense* [Argentine Team of Forensic Anthropology].

96. The Commission never received information regarding an investigation or punishment of the state agents that engaged in acts of negligence or omission, obstructing the investigation.⁵⁸ Despite the evident acts of judicial negligence and omission, the State itself recognized, during the processing of the case before the IACHR that the Office of the Attorney General of the State declared itself incompetent to find those officials who had committed irregularities responsible for them.

97. Claudia Ivette's next of kin were the victims of continued harassment, maltreatment, and intimidation by the authorities and agents. The authorities uttered value judgments regarding the conduct of Claudia Ivette before her disappearance, and this behavior continued throughout the entire investigation. In the words of the victim's mother, "on that occasion and on the others in which we had to come to receive progress reports regarding the investigations, or to promote them, we were not treated gently nor courteously, nor even less with compassion and respect for our dignity."⁵⁹

98. Although at this time there are inquiries leading to establish the eventual guilt regarding several homicides committed in Ciudad Juárez, of Alejandro Delgado Valles, Francisco Granados de la Paz and Edgar Álvarez Cruz,⁶⁰ the latter in the custody of immigration police in the United States (it is my understanding that Francisco Granados la Paz is the one detained in the United States), there have been public denunciations and complaints of irregularities in said investigation.⁶¹

C. The disappearance and death of Esmeralda Herrera Monreal and the

⁵⁷ The identification of Laura Berenice Ramos, Esmeralda Herrera Monreal, and Claudia Ivette González was correct, as well as that of Mayra Juliana Reyes Solís and María de los Ángeles Acosta Ramírez. The identification of Guadalupe Luna de la Rosa, Verónica Martínez Hernández and Barbara Araceli Martínez Ramos was mistaken.

⁵⁸ None of the documents submitted by the State regarding disciplinary or criminal proceedings for abuse of authority during the processing of the case before the IACHR are related to the investigations of irregularities in the cases which are the matter of this application. Annex 96.

⁵⁹ Deposition of Mrs. Benita Monárrez Salgado on July 23, 2006 before the agent of the Office of the Prosecutor, attached to the Office of the Comptroller of Internal Affairs, Northern Zone

⁶⁰ procedure practiced at the "Cuatro Vientos" junkyard, consisting of the preventive seizure of a burgundy Renault Alliance vehicle, property of Gustavo Gil Molina; the vehicle was confiscated by the Office of the Prosecutor and destined to remain in the custody of the Forensic Medical Service, Annex 89; Official record of on-site inspection and seizure of objects made by Lic. Rodrigo Caballero, agent of the Office of the Public Prosecutor, on August 24, 2006, on a property owned by Juventino Murillo Solís (formerly property of Francisco Granados de la Paz, currently accused). This record describes a number of objects found in a latrine on said property, which were confiscated by the Office of the Public Prosecutor, and report published in the newspaper *El Diario*, n.d., titled "*Pide perdón 'El Cala' por inculpar a detenido*" ["El Cala" Begs Forgiveness for Framing Detainee], Annex 7.

⁶¹ Complaint regarding the crime of abuse of authority, lodged by Jorge Luis Puentes García on August 6, 2007, Annex 94; Complaint filed by María Peinado Portillo, wife of Edgar Álvarez Cruz, before the *Comisión Estatal de Derechos Humanos* [State Human Rights Commission] on August 8, 2007, Annex 95.

subsequent investigation⁶²

99. Esmeralda Herrera Monreal, 15 years of age, disappeared on October 29, 2001, as she was traveling from her home to a house where she worked as a maid.

100. There is no record that the victim was sought by the authorities between the time at which her disappearance was reported by her mother, on October 30, 2001, and November 6, 2001, when her remains were found. The authorities transferred to the family the responsibility of finding Esmeralda, telling them that she had probably gone off with her boyfriend.⁶³

101. Procedures carried out by the State were limited to writing a report on a missing person,⁶⁴ preparing a poster on the disappearance of Esmeralda Herrera Monreal,⁶⁵ and taking the deposition of the mother of the alleged victim.

102. The mother of Esmeralda Herrera Monreal was not notified by the authorities of the finding of the first three bodies on November 6, 2001 on the property known as "*campo algodnero*" [the cotton field] among which, it was suspected, was her daughter's. It cannot be inferred from the file who was the person who found the bodies, nor that the finding was part of searches carried out by the authorities. The officer of the Public Prosecutor Lic. Octavio Rivas Ávila began the investigation after a telephone call from the radio operator of the Judicial Police of the State.⁶⁶ The name of the policeman who made the call is unknown, and there is no police report indicating the circumstances surrounding the finding.

103. When the bodies were found, on November 6 and 7, 2001, the personnel from expert services of the PGJE searched for evidence at the site where the bodies were

⁶² The Commission at this time does not offer documentary evidence regarding the facts described in this section, but shall offer evidence *infra*, through witness and expert testimony, paras. 304 and 305.

⁶³ Amnistía Internacional, *Muertes Intolerables, Diez Años de Desapariciones de Asesinatos de Mujeres en Ciudad Juárez y Chihuahua*, 11 de agosto de 2003, AI: AMR 41/026/2003. Available at: <http://web.amnesty.org/library/Index/ESLAMR410262003?open&of=ESL-MEX>; English: Amnesty International, *Mexico: Intolerable Killings: 10 years of Abductions and Murders in Ciudad Juárez and Chihuahua*, AMR 41/027/2003, summary in English available at: <http://www.amnesty.org/en/report/info/AMR41/027/2003>, Annex 6.

⁶⁴ Missing Person Report No. 241/2001 regarding Esmeralda Herrera Monrea, Annex 13.

⁶⁵ Announcement of the disappearance of Esmeralda Herrera Monreal, Annex 31.

⁶⁶ Official communication [*Fe Ministerial*] of November 6, 2001, at 10:00 hours, signed by the agente of the Prosecutor's Office Lic. Cesar Octavio Rivas Ávila, AP 27913-01Annex 33.

found.⁶⁷ On the first day 8 evidentiary items were collected, and on the second day, a total of 26.⁶⁸

104. On February 24, 2002, faced with no investigative procedures being carried out, the next of kin of the alleged victim and of other victims searched the site where the bodies were found, which was not cordoned off by the police, and found several garments and objects.⁶⁹ The next of kin immediately notified the Special Prosecutor, so that the objects could be collected and a chain of custody of the evidence could be established. The next of kin of the victims organized a second search on February 25, 2002, this time accompanied by personnel from the Office of the Special Prosecutor. The official inventory of garments and objects is comprised of different garments, nine shoes, and 11 diverse objects, including a license plate belonging to a border vehicle and a provisional municipal permit.⁷⁰

105. The authorities associated some of the evidence found – hair, blood stains, objects, etc. – with certain bodies for no other reason than their physical location, i.e., because of their proximity to the bodies, as all of this was found in a widely open space. In the record of the collection of evidence dated November 6, 2001, the marking method used for evidence is not given, nor who was responsible for the collection, where the items were sent, nor their conditions of preservation.⁷¹

106. Regarding the body registered under number 188/01, as belonging to Esmeralda Herrera Monreal, the November 6, 2001 record states that at the scene where the first body was found, there was also the finding of a blood stain and several locks of hair.⁷²

107. The record does not reflect the chain of custody nor the names of the officers responsible. They allege that there was only the blood typing of some of the objects and evidentiary items found, and no confrontation with other evidence.

⁶⁷ Official record of removal of unidentified body No. 188/01, by the Office of the Attorney General of the State of Chihuahua, dated November 6, 2001; Official record of removal of unidentified body No. 189/01, by the Office of the Attorney General of the State of Chihuahua, dated November 6, 2001, Annex 36, and Official record of removal of unidentified body No. 190/01, by the Office of the Attorney General of the State of Chihuahua, dated November 6, 2001, Annex 37.

⁶⁸ Field Criminology Report of February 2, 2002, conveyed by Communication 0184 of February 6, 2002, signed by Lic. Héctor Enrique Infante Chávez, Annex 62.

⁶⁹ Record of collection of evidence carried out by the next of kin of the victims on February 24, 2002, signed by Lic. Mayte Espinoza, agent of the Office of the Public Prosecutor.

⁷⁰ Deposition of Ms. Benita Monárrez Saigado on July 23, 2006 before the agent of the Office of the Public Prosecutor, attached to the Office of the Comptroller of Internal Affairs, Northern Zone, Annex 84.

⁷¹ Official record of removal of unidentified body No. 188/01, by the Office of the Attorney General of the State of Chihuahua, dated November 6, 2001, Annex 35.

⁷² Official record of removal of unidentified body No. 188/2001, by the Office of the Attorney General of the State of Chihuahua, dated November 6, 2001, Annex 35.

108. The mother of the alleged victim asserts that "my daughter's body, after only eight days of having disappeared, had no face or hair⁷³; the Judicial [Police] affirmed that animals, wind, and earth had destroyed it. However, the rest of her body was naked and intact. Moreover, at the time it was found, she was face down."⁷⁴ On November 9, the forensic scientist of the Office of the Attorney General of the State, stated the cause of death of Esmeralda Herrera Monreal to be "undetermined," having omitted studies that would provide additional evidence."⁷⁵

109. There is no certainty that the first body removed on November 6, 2001, belonged to number 188/01 (Esmeralda Herrera), since this number was not assigned at the scene, but later. The results of the analysis of samples taken of the lungs, or of the hair on the skull alluded to in the autopsy's conclusions, are not known.

110. There are contradictions and inconsistencies in the results of the procedures to identify the remains. Although the first expert report was issued on November 21, 2001 regarding craniometry and odontology, which finds that the skull and teeth of body 188/01 coincide with photographs of Esmeralda Herrera Monreal,⁷⁶ in October 2002 a forensic genetics report was issued stating that there is a "possible" correspondence between body 188 and the next of kin of Esmeralda Herrera Monreal.⁷⁷ The body of Esmeralda Herrera Monreal was shown only to the father and two brothers of Esmeralda Herrera Monreal, on November 16, 2001, and not to the mother, and they were not able to identify it given its state⁷⁸; they could only recognize the clothing presented to them as found on said body. According to the mother's testimony, no next of kin was allowed to see the body of Esmeralda Herrera Monreal once she was placed in her coffin. In the mother's own words, "they sealed the coffin and did not allow us to open it before burying her."⁷⁹ This generated very serious doubts regarding the true identity of the remains.

111. In November 2001, blood and hair samples for DNA testing were taken from the parents of the alleged victim, and they were assured that in one month they would

⁷³ Autopsy report regarding unidentified body No. 189/2001, of November 9, 2001 signed by the forensic scientist Dr. Enrique Silva Pérez, Annex 41.

⁷⁴ Official record of removal of unidentified body No. 189/01, by the Office of the Attorney General of the State of Chihuahua, dated November 6, 2001, Annex 36.

⁷⁵ Autopsy report regarding unidentified body No. 189/2001, of November 9, 2001 signed by the forensic scientist Dr. Enrique Silva Pérez, Annex 41.

⁷⁶ Report of forensic facial approximation for identification of body 188/01 (Esmeralda Herrera) November 21, 2001, Annex 58.

⁷⁷ Addition to the report on genetic comparison tests, *inter alia*, to establish blood relationships, regarding bodies 188/01, 189/01 and 190/01, dated October 8, 2002, Annex 72.

⁷⁸ Deposition of Adrián Herrera Monreal, identifying the body of his sister Esmeralda Herrera Monreal, dated November 16, 2001, Annex 54, and Deposition of Antonio Herrera Rodríguez, identifying the body of his daughter Esmeralda Herrera Monreal, dated November 16, 2001, Annex 55.

⁷⁹ Authorization to release the body of Esmeralda Herrera Monreal, dated November 16, 2001, Annex 56.

receive the results of the test, which actually did not happen until more than four years later.⁸⁰

112. In 2006, the Argentine Team of Forensic Anthropology (EAAF, for its acronym in Spanish), carried out another procedure for the identification of the remains. This team had carried out these procedures in the cases of other murdered women, where the victims' identity was unknown, and their remains were marked as such in autopsy halls or common graves.⁸¹

113. As explained in the section above, on August 21, 2006, the Office of the Attorney General of the State issued an official report to the press regarding the investigations.⁸²

114. Regarding the identification of those responsible, in the days immediately after the finding of the *campo algodono* bodies, the authorities produced two persons charged with having committed the crimes. However, officers assigned to the case of Esmeralda Herrera Monreal had told her mother that the arrest of Víctor Javier García Uribe and Gustavo González Meza was not based on probable cause and that there were contradictions in the identification of the bodies of the young women. As explained above, Gustavo González died in prison and Víctor Javier García Uribe was acquitted and freed in 2005 for lack of evidence of his participation in the murders of the *campo algodono* women.⁸³

115. The authorities closed Esmeralda's case after the body was handed over. The family did not receive a copy of the record, although they had repeatedly requested one.⁸⁴ The documents in the record were not properly organized nor signed. Many of the procedures of the preliminary investigation do not have a record of the time at which they

⁸⁰ Requests for expert reports, communications 504/01 and 507/01 of November 8, 2001; 513/01 and 514/01 of November 9, 2001; s/n 521/01 and 504/00 of November 10, signed by Lic. Zulema Bolívar García, Agent of the Office of the Public Prosecutor Annex 39.

⁸¹ Press Release of the Argentine Team of Forensic Anthropology of February 23, 2006: *Reporte de avance sobre trabajos de identificación de restos femeninos de Ciudad Juárez y de la Ciudad de Chihuahua* [Progress Report on the Identification of the Female Remains of Ciudad Juárez and the City of Chihuahua], Annex 87.

⁸² Report published by *El Diario* newspaper on August 21, titled "*Reporte de la PGJE sobre asesinatos de mujeres*" [PGJE Report on Women's Murders], Annex 7.

⁸³ Official communication 794 issued by the clerk of the Fourth Criminal Chamber to the Judge of the Third Criminal Court, Ciudad Juárez, Decision 474/04, Annex 83; Press release No. 136/05 of the Comisión para Prevenir y Erradicar la Violencia contra las Mujeres en Ciudad Juárez (CPEVMCJ) [Commission for the Prevention and Eradication of Violence against Women in Ciudad Juárez] of July 14, 2005: *La Comisión para Juárez pide una investigación expedita para dar con los responsables de los crímenes de mujeres del Campo Algodonero* [The Commission for Juárez Requests an Expedited Investigation to Find those Responsible of the Murders of Campo Algodonero], Annex 86.

⁸⁴ Record of a Work Meeting on July 19, 2007, as part of the 128th Regular Session of the Inter-American Commission, Annex 93.

were practiced, or of the names of those participating, or their position, and in some cases, of the signatures of the public officials.⁸⁵

116. Several officials who participated in different ways in the investigation of the Esmeralda Herrera case were identified by the victim's next of kin during the processing before the Commission, and before State authorities,⁸⁶ as responsible for negligence and arbitrary conduct, despite which their participation in the investigation was not suspended. Among these were: Lic. Arturo González Rascón, Lic. José Manuel Ortega Aceves, Lic. Zulema Bolívar García, Lic. Jesús Manuel González Guerrero, Lic. Octavio Rivas Ávila, the public defender Lic. Montañez, Francisco Cisneros Prieto, Sully Ponce Prieto, police officers Roberto Alejandro Castro Valles, Jaime Gurrola Serrano, Ciro Andrés Loera Huereca, Sergio Tomás García and the official medical doctor Samuel Villalba Calleros.

117. In this application's previous section, it was stated that, in 2003, the PGR took 14 case records regarding the homicides of women and girls, including Esmeralda Herrera Monreal's. Three years later, it returned them to the Office of the Attorney General of the State, having reached no conclusion.⁸⁷

118. The next of kin of Esmeralda were victims of continuous harassment, maltreatment, and intimidation on the part of authorities and agents. The authorities made value judgments with respect to Claudia Ivette's conduct before her disappearance, behavior that continued throughout the entire investigation. On August 25, 2006, State Prosecutor Patricia González met with the mothers of the victims of *campo algodono* (and Cristo Negro) and told them they had been summoned to inform them that there were new clues regarding the facts of *campo algodono*, and this was all the information they were given. They did not receive any legal counsel from the Office of the Prosecutor, either.

119. In addition, the uncertainty lived by the next of kin regarding the true identity of the remains has been cause of great suffering.

D. The disappearance and death of Laura Berenice Ramos Monárrez, and the subsequent investigation⁸⁸

120. Laura Berenice Ramos, 17 years of age, fifth semester high school student, disappeared on Friday, September 22, 2001.⁸⁹ On September 25, 2001 her next of kin

⁸⁵ This is violation of articles 17 and 25 of the Code of Criminal Procedure of the State of Chihuahua.

⁸⁶ Recording of the public hearing with the State Attorney General, the EAAF and the families of "Campo Algodono," on August 4, 2006, Annex 88; Complaint filed on June 5, 2007, against the officials and former officials who participated in the first "Campo Algodono" investigation, Annex 92.

⁸⁷ Report published in the newspaper *El Diario* on June 29, titled "Devuelve PGR casos de 14 asesinadas" [The PGR returns the cases of the 14 murdered women], Annex 7.

⁸⁸ The Commission at this time does not offer documentary evidence regarding the facts described in this section, but shall offer evidence *infra*, through witness and expert testimony, paras. 304 and 305.

⁸⁹ Missing Person Report No. 225/2001: Laura Berenice Ramos Monárrez, Annex 11.

filed a disappearance report before the Office of the Special Prosecutor on Disappeared Persons and Homicides of Women.⁹⁰ From that moment on, until the finding of her body on November 6, 2001, no search of any kind was carried out by the State. It was the victim's next of kin and other people in similar circumstances who tried to find her without the support of the authorities.

121. For approximately one month the authorities did not engage in any search. The only item in the record is a "Report of Disappearance," which the Coordinator of the Program on Attention to Victims sent to the Chief of the Judicial Police of the northern zone, requesting an investigation to clarify the facts.

122. Although there was testimony offering clues regarding how Laura Berenice Ramos could have disappeared, these were not considered.⁹¹ There were no inquiries at the school of computer science where Laura studied, interviews with her girl friends and acquaintances, or in her workplace, in order to try to find her alive.

123. The mother of the victim affirmed that she had repeatedly tried to collaborate with the investigation of the facts, giving information that could have contributed to the clarification of the facts, but the authorities did not follow up.⁹² For example, Ms. Monárrez stated that she had given the authorities the name of a judicial officer with whom her daughter would go out sometimes, but he was not interviewed. She also had reported that calls received on her daughter's cell phone were not investigated.

124. The first contact with the authorities in the investigation was a telephone call received on November 6, 2001 summoning the next of kin to the Office of the Special Prosecutor for the Investigation of Female Homicides, following the finding of three bodies in a cotton field.

125. The actions of the state authorities are characterized by irregularities, delays, and omissions from the very beginning, as has been acknowledged by the *Procuradora General de Justicia* [Attorney General] of Chihuahua.⁹³ When the bodies were found, the authorities of the Office of the Assistant Attorney General of the Northern Zone of the Office of the Attorney General of the State of Chihuahua responsible for the investigation of murders of women and girls carried out several preliminary expert examinations to identify the victims, and collected certain evidentiary items at the site where the bodies

⁹⁰ Comparecencia de Benita Monárrez Salgado ante el Ministerio Público, 25 de septiembre del 2001, Annex 12. Appearance of Benita Monárrez Salgado, mother of the victim, before the Office of the Public Prosecutor, September 25, 2001

⁹¹ Annexes 14, 15, 16, and 17.

⁹² Deposition of Ms. Benita Monárrez Salgado on July 23, 2006 before the agent of the Office of the Prosecutor, attached to the Office of the Comptroller of Internal Affairs, Northern Zone, Annex 84.

⁹³ Report published in the daily newspaper *La Jornada* of August 22, 2006, titled "*Falsean datos de tres feminicidios en Juárez*" [Data on Three Femicides in Juarez Was Faked], Annex 7.

were found.⁹⁴ These procedures, however, were carried out, in incomplete fashion, during the 96 hours following the discovery of the bodies.

126. On November 7, 2001, the next of kin of Laura Berenice Ramos allowed ministry agents to enter the victim's bedroom, from which they took several of her belongings and personal documents, including the business card of the Director of Municipal Transit and of the former chief of Preliminary Investigations, who was an former boyfriend of Laura's. The representatives of the next of kin, during the processing before the Commission, contended that neither the originals nor copies of these business cards can be found in the record of the investigation, nor is there any evidence that these persons had been questioned.

127. During the search of the crime scene carried out on February 25, 2002, where the next of kin were accompanied by personnel from the Office of the Special Prosecutor, garments and hair were found at the site from which the body of Laura Berenice Ramos had been removed.⁹⁵

128. Laura Berenice Ramos was identified by her mother through a brassier which she recognized as one which her daughter used, as well as a fracture in her daughter's right arm.⁹⁶

129. On March 22, 2002, the remains of Laura Berenice Ramos were handed over to her next of kin, but without scientific certainty regarding their identity.⁹⁷

130. The forensic genetic tests performed initially by the State concluded in September of 2002 that there was no genetic correspondence with the skeletal remains by which Laura Berenice Ramos had been identified.⁹⁸

131. As has been explained above, in the days subsequent to the finding of the bodies of *campo algodonoero*, the authorities presented Víctor Javier García Uribe and Gustavo González Meza as the alleged parties responsible for the crimes. One of them ended up dead in prison, under unclear circumstances, and the other was acquitted in 2005.

⁹⁴ Report of forensic facial approximation for identification of body 190/01 (Laura Berenice Ramos), of January 8, 2001, Annex 60; Official record of removal of unidentified body No. 190/01, by the Office of the Attorney General of the State of Chihuahua, dated November 6, 2001, Annex 37.

⁹⁵ Official Record of collection of evidence carried out by the next of kin of the victims, the Office of the Prosecutor, and the Technical Office for Expert Services, on February 25, 2002, signed by Lic. César Octavio Rivas Ávila, agent of the Office of the Public Prosecutor, Annex 64.

⁹⁶ Appearance of Benita Monárrez Salgado: identification of the body of Laura Berenice Ramos, dated March 22, 2002, Annex 67. Also see: Deposition of Pablo Monárrez Salgado identifying the body of his niece Laura Berenice Ramos, dated March 22, 2002, Annex 68.

⁹⁷ Authorization for the release of the body of Laura Berenice Ramos, dated March 22, 2002, Annex 69.

⁹⁸ Official communication No. 34196 of September 20, 2002, results of the genetic comparison tests, *inter alia*, to establish blood relationships, regarding bodies 188/01, 189/01 and 190/01, Annex 71.

132. The record of the investigation of the death of Laura Berenice Ramos was included in the 14 that the Office of the Attorney General of the Republic took over in 2003.

133. The mother of Laura Berenice Ramos was also present at the meeting of August 25, 2006, between the Office of the Attorney General of the State and the mothers of the victims of *campo algodono* and Cristo Negro.

134. The next of kin of Laura Berenice were continuously the victims of harassment, maltreatment, and intimidation on the part of authorities and state agents, from the moment her disappearance was reported.

135. The next of kin of Laura Berenice Ramos received anonymous telephone threats, which were not followed up upon by the officers of the Office of the Special Prosecutor, despite the timely reports filed by them.⁹⁹

136. Claudia Ivonne Ramos, sister of the victim, has been intimidated by what are apparently official government vehicles (of the Office of the Attorney General of the State), following her.¹⁰⁰ This was reported to the authorities, but there is no record in the file of this, nor of any preliminary inquiry. In early September 2006 both the mother of the victim and her son Daniel Ramos Monárrez were victims of attempts to run them down with a vehicle; this prompted them to request precautionary measures before the Commission, request which is currently under study and regarding which the IACHR has requested information from the petitioners on several occasions.

137. The next of kin of Laura Berenice Ramos insisted several times on receiving a copy of the judicial record, but have not received it to date.¹⁰¹

138. The next of kin of Laura Berenice did not receive proper attention from the investigating authorities nor legal counsel from the office of the Public Prosecutor, and in fact provisions of domestic law have been violated, which grant the next of kin of victims the status of collaborators for the prosecuting authorities; possible leads given by the next of kin have not even been the object of inquiry in order to clarify the facts.¹⁰²

VII. GROUNDS IN LAW

⁹⁹ Record of the July 19, 2007 Work Meeting, within the 128th Regular Session of the Inter-American Commission, Annex 93.

¹⁰⁰ Deposition of Claudia Ivonne Ramos Monárrez (sister of Berenice Ramos Monárrez) taken at the Office of the Public Prosecutor on July 9, 2007, Annex 91.

¹⁰¹ Record of the July 19, 2007 Work Meeting, within the 128th Regular Session of the Inter-American Commission, Annex 93.

¹⁰² Appearance of Benita Monárrez Salgado, mother of the victim, December 10, 2000 [sic] 2001: inspection of the room of the victim Laura Berenice Ramos, Annex 61.

A. Violation of the right to live free from violence and discrimination

139. It has been internationally recognized that violence against women is a serious problem in the area of Ciudad Juárez, due to the unusual rise in the number of murders of women since 1993.¹⁰³ The Commission, along with several international governmental and non-governmental organizations, has reached the conclusion that the Mexican State has not acted with due diligence to protect the victims or to promote effective prevention, investigation, and prosecution of those responsible for these crimes.¹⁰⁴

140. The absence of effective State measures regarding the disappearance and subsequent death of the victims has been linked to a systematic pattern of omissions and irregularities in cases of violence against women. This pattern existed at the time of the facts, has been internationally documented by various non-governmental organizations and international and regional agencies, such as the Inter-American Commission. These cases were never given priority, or were assigned the minimum amount of resources necessary to clarify the murders, and to identify and punish those responsible. These omissions and irregularities were reflected in the treatment given by local authorities to both the cases and to the victims' next of kin.

141. The Convention of Belém do Pará establishes that the duty to apply due diligence has special meaning in cases of violence against women. This convention reflects uniform concern throughout the entire hemisphere regarding the seriousness of the problem of violence against women, its relationship with the discrimination that historically they have endured, and the need to adopt integral strategies to prevent it, punish it, and eradicate it. The Convention of Belém do Pará recognizes the critical link that exists between women's access to adequate judicial protection when suffering from acts of violence, and the elimination of the problem of violence as well as the discrimination perpetuating it.

142. In a prior case, the Inter-American Court decided:

¹⁰³ United Nations, Committee on the Elimination of Discrimination against Women, *Report on Mexico produced by the Committee on the Elimination of Discrimination against Women under article 8 of the Optional Protocol to the Convention, and reply from the Government of Mexico*, CEDAW/C/2005/OP.8/MEXICO, January 27, 2005, Annex 3b; United Nations, *Informe de la Comisión de Expertos Internacionales de la Organización de las Naciones Unidas, Oficina de las Naciones Unidas contra la Droga y el Delito, sobre la Misión en Ciudad Juárez, Chihuahua, México*, United Nations Office on Drugs and Crime, November 2003, Annex 3a; United Nations, *Report of the Special Rapporteur on Violence against Women, Its Causes and Consequences, Yakin Ertürk*, Integration of the Human Rights of Women and Gender Perspective: Violence against Women, Mission to Mexico E/CN.4/2006/61/Add.4, January 13, 2006, Annex 3c; United Nations, *Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions*, E/CN.4/2000/3, Add.3, Annex 3d; United Nations, *Report of the Special Rapporteur on the Independence of Judges and Lawyers*, E/CN.4/2002/72/Add.1, Annex 3e; Amnesty International, *Mexico: Intolerable Killings: 10 Years of Abductions and Murder of Women in Ciudad Juárez and Chihuahua*, AMR 41/027/2003, and others, Annex 6.

¹⁰⁴ IACHR, *The Situation of the Rights of Women in Ciudad Juárez, Mexico: The Right to Be Free from Violence and Discrimination*, OEA/Ser.L/V/II.117, Doc. 44, March 7, 2003, Annex 1.

with regard to the mentioned aspects specific to violence against women, this Court will apply Article 5 of the American Convention and will set its scope, taking into consideration as a reference of interpretation the relevant stipulations of the Inter-American Convention to Prevent, Punish, and Eradicate Violence Against Women, ratified by Peru on June 4, 1996, and the Convention on the Elimination of all Forms of Discrimination against Women, ratified by Peru on September 13, 1982, in force at the time of the facts, since these instruments complement the international *corpus juris* in matters of protection of women's right to humane treatment, of which the American Convention forms part.¹⁰⁵

143. Article 7 of the Convention of Belém do Pará establishes a set of complementary and immediate obligations of the State to achieve effective prevention, investigation, punishment, and compensation in cases of violence against women, including to:

- a. refrain from engaging in any act or practice of violence against women and to ensure that their authorities, officials, personnel, agents, and institutions act in conformity with this obligation;
- b. apply due diligence to prevent, investigate and impose penalties for violence against women;
- c. include in their domestic legislation penal, civil, administrative and any other type of provisions that may be needed to prevent, punish and eradicate violence against women and to adopt appropriate administrative measures where necessary;
- d. adopt legal measures to require the perpetrator to refrain from harassing, intimidating or threatening the woman or using any method that harms or endangers her life or integrity, or damages her property;
- e. take all appropriate measures, including legislative measures, to amend or repeal existing laws and regulations or to modify legal or customary practices which sustain the persistence and tolerance of violence against women;
- f. establish fair and effective legal procedures for women who have been subjected to violence which include, among others, protective measures, a timely hearing and effective access to such procedures;
- g. establish the necessary legal and administrative mechanisms to ensure that women subjected to violence have effective access to restitution, reparations or other just and effective remedies; and
- h. adopt such legislative or other measures as may be necessary to give effect to this Convention.

143. It is the opinion of the Commission that the duty of States, in cases of violence against women, include those of protecting the victims, investigating, prosecuting, and punishing those responsible, as well as the duty of "preventing these degrading practices."¹⁰⁶ The Commission has established that the lack of judicial effectiveness in cases of violence against women generates an environment of impunity which facilitates violence and promotes the recurrence of these acts, "since society sees

¹⁰⁵ I/A Court HR, Case of the Miguel Castro-Castro Prison v. Peru, Judgment of November 25, 2006, (Merits, Reparations and Costs). Series C No. 160, para. 276.

¹⁰⁶ IACHR, Report on the Merits, N° 54/01, *Maria Da Penha Fernandes* (Brasil), April 16, 2001, para. 56.

no evidence of willingness by the State, as the representative of the society, to take effective action to sanction such acts".¹⁰⁷

145. The Commission wishes to emphasize that from the evidence in the instant case it can be inferred that the delays, irregularities, and omissions in the investigation of these cases is due to the discrimination that historically has affected women and to a pattern of impunity regarding these facts that prevailed in Ciudad Juárez at the time in which they occurred, that negatively influenced the actions of state officials whose responsibility it was to clarify the facts and punish those responsible. The State did not contest the existence of a pattern of irregularities and impunity specifically in cases of violence against women. The Commission contends that the State did not apply the necessary due diligence to solve the cases of Claudia Ivette González, Laura Berenice Ramos and Esmeralda Herrera Monreal because it did not consider the disappearance and subsequent death of said victims a priority.

145. The IACHR wishes to also emphasize that in the instant case, discriminatory attitudes against women on the part of state officials influenced the investigation of these murders. In its visit to Ciudad Juárez, the Rapporteurship observed lack of impartiality and gender bias in the actions of prosecutors and investigators in cases of violence against women; the victims were, in fact, disqualified/disparaged during the investigations:

almost as soon as the rate of killings began to rise, some of the officials responsible for investigation and prosecution began employing a discourse that in effect blamed the victim for the crime. According to public statements of certain highly placed officials, the victims wore short skirts, went out dancing, were "easy" or were prostitutes. Reports document that the response of the relevant officials to the victims' family members ranged from indifference to hostility.¹⁰⁸

146. The attitude of state authorities when the next of kin reported the victims' disappearance, two of them minors, coincides with the state pattern of discrimination against women at the time the facts occurred, documented by the Commission. This pattern is reflected in the perception on the part of the state officials that the search and protection of women reported as having disappeared was not important. In the cases of Claudia Ivette González and Esmeralda Rivera Monreal, when each disappearance was reported, the next of kin received comments on the part of state officials regarding their daughter's behavior, which they consider to have influenced subsequent state lack of action. In both cases, the authorities told the next of kin that 72 hours had to elapse before an investigation could begin. Moreover, in the case of Claudia Ivette González, an officer of the state judicial police told a female friend of the victim that she had probably gone off with her boyfriend, because girls were "*muy 'voladas'*" [very flirty] and "*se les 'aventaban' a los hombres*" [threw themselves on men], and that in the case of Esmeralda

¹⁰⁷ IACHR, Report on the Merits, N° 54/01, *Maria Da Penha Fernandes* (Brasil), April 16, 2001, para. 56.

¹⁰⁸ IACHR, *The Situation of the Rights of Women in Ciudad Juárez, Mexico: The Right to Be Free from Violence and Discrimination*, OEA/Ser.L/V/II.117, Doc. 44, March 7, 2003, para. 4, Annex 1.

Herrera Monreal, state authorities said that she had probably "gone off with her boyfriend or with a girlfriend."

148. It is also necessary to highlight the lack of sensitivity and scant importance attached to the concerns and suffering of the victims' mothers by state officials. The mothers had lost their daughters under extremely violent and wrenching circumstances, and were seeking proper clarification of the facts and the punishment of those responsible. In this respect the Commission wishes to bring the Court's attention to the fact that, during the processing before the IACHR, the State decided not to make a statement regarding these allegations, considering them subjective opinions.

149. In the case of Laura Berenice Ramos, her mother, between November 6, 2001 and March 20, 2002, repeatedly requested that she be allowed to see the body that they had identified as belonging to Laura Berenice Ramos. One prosecutor, when the mother wanted to know if it was or not her daughter, answered her: "What are some bones in a tub of water going to tell you?" In the case of Esmeralda Herrera Monreal, when her mother requested the authorities to investigate a person who possibly had information on her daughter's whereabouts, she received the response, "lady, go and find him yourself, and question him, and see what he says, and according to what you find, well, you can come and tell us." In the case of Claudia Ivette González, in the words of the mother of the victim, "on that occasion and on others where we had to go to [the authorities] to receive progress reports or promote action, we were not treated gently or courteously, and even less with compassion and respect for our dignity."

150. This kind of treatment is particularly serious considering that it can be inferred from the record that the bodies of Esmeralda Herrera Monreal, Claudia Ivette González and Laura Berenice Ramos were subjected to particular viciousness on the part of the assailants as part of the homicides. In the case of Esmeralda Herrera Monreal, her body was found with her hands tied: "the upper extremities under the body tied one to the other, with a black band, twice around each wrist, and with three knots on the right-hand one."¹⁰⁹ Her autopsy report notes that "the skin appeared withered with epidermis, with partial absence of part of the nipple from the left mammary region."¹¹⁰ The autopsy report for Laura Berenice establishes that "in the right mammary region one observes that the nipple presented a flat wound which cut off its tip, and is 5 mm in diameter," as well as the absence of one thumbnail.¹¹¹ In the case of Claudia Ivette González, the autopsy certificate notes that "the flesh was removed from the head, with scant presence of the scalp in the posterior region."¹¹² While in all three cases it was not possible to establish that a rape had been committed, the experts involved noted that due to the semi-nude

¹⁰⁹ Field Criminology Report of February 2, 2002, conveyed by Communication No. 0184 of February 6, 2002, signed by Lic. Héctor Enrique Infante Chávez, Annex 62.

¹¹⁰ Autopsy report regarding unidentified body No. 188/2001, of November 9, 2001 signed by the forensic scientist Dr. Enrique Silva Pérez, Annex 40.

¹¹¹ Autopsy report regarding unidentified body No. 190/2001, of November 9, 2001 signed by the forensic scientist Dr. Enrique Silva Pérez, Annex 41.

¹¹² Autopsy report regarding unidentified body No. 189/2001, of November 9, 2001 signed by the forensic scientist Dr. Enrique Silva Pérez, Annex 42.

conditions in which the corpses were found, "it is possible to establish with a high degree of probability that it is a crime sexual in nature."¹¹³ Despite the brutality and characteristics of these murders, the evidence now placed at the Court's disposal reveals that the investigation was not undertaken with the proper seriousness by the state authorities.

151. In particular, in the investigation of cases that involve women, the Commission in its reports on the situation in Ciudad Juárez and on access to justice for women¹¹⁴ has described the way in which certain sociocultural patterns can operate in the actions of the judiciary and the police, which may result in discrediting the credibility of the victim, and which may contain tacit assumptions that they themselves are responsible for the facts.¹¹⁵ This situation translates into inaction by the prosecutors, police, or judges in the face of complaints of acts of violence.¹¹⁶ In keeping with what was previously observed, the Commission contends that the lack of due diligence in investigating and punishing these crimes reflects the fact that they were not considered a serious and priority problem, sending a message to society that violence against women should be tolerated.

152. Notwithstanding the measures taken in recent years by the Mexican State to confront the situation in Ciudad Juárez, which the Commission recognizes as significant efforts, at the time the facts occurred, the State had not adopted the policies or measures necessary for guaranteeing the effective prevention, investigation, and punishment of violent acts directed against women. The instant cases are emblematic of this pattern of impunity and judicial ineffectiveness. It is the opinion of the Commission that for the State to prove that it met its obligation to act with due diligence under Article 7 of the Convention of Belém do Pará, it is not sufficient to present evidence of the measures taken to eliminate the general societal tolerance of violence against women.¹¹⁷ The State must demonstrate that it is genuinely committed to confront this pattern of impunity.¹¹⁸ Six years after the bodies of Laura Berenice Ramos, Claudia Ivette González, and Esmeralda

¹¹³ Official record of removal of unidentified body No. 188/01, by the Office of the Attorney General of the State of Chihuahua, dated November 6, 2001, Annex 35; Official record of removal of unidentified body No. 189/01, by the Office of the Attorney General of the State of Chihuahua, dated November 6, 2001, Annex 36; Official record of removal of unidentified body No. 190/01, by the Office of the Attorney General of the State of Chihuahua, dated November 6, 2001, Annex 37.

¹¹⁴ IACHR, *Access to Justice for Women Victims of Violence in the Americas*, OEA/Ser. L/V/II. doc.68, January 20, 2007, Annex 2.

¹¹⁵ IACHR, *Access to Justice for Women Victims of Violence in the Americas*, OEA/Ser. L/V/II. doc.68, January 20, 2007,, Section II: Inadequacies in the Judicial Response to Cases of Violence against Women, Annex 2.

¹¹⁶ IACHR, *Access to Justice for Women Victims of Violence in the Americas*, OEA/Ser. L/V/II. doc.68, January 20, 2007,, Section II: Inadequacies in the Judicial Response to Cases of Violence against Women, Annex 2.

¹¹⁷ IACHR, Report on the Merits, N° 54/01, *Maria Da Penha Fernandes* (Brasil), April 16, 2001, para. 57.

¹¹⁸ IACHR, Report on the Merits, N° 54/01, *Maria Da Penha Fernandes* (Brasil), April 16, 2001, para. 57.

Herrera Monreal were found, these cases continue to be paradigmatic of the pattern of judicial ineffectiveness, delays, and impunity that has affected the crimes against women in Ciudad Juárez since 1993.

153. Based on the considerations set forth, the Commission requests that the Inter-American Court find that State failed in its duty to act diligently to prevent, investigate, and punish the acts of violence suffered by Laura Berenice Ramos, Claudia Ivette González, and Esmeralda Herrera Monreal, in violation of Article 7 of the Convention of Belém do Pará.

B. Violation of the right to life

154. Article 4.1 of the American Convention on Human Rights provides that:

[e]very person has the right to have his life respected. This right shall be protected by law and, in general, from the moment of conception. No one shall be arbitrarily deprived of his life.

155. The Court has established that:

[...] the right to life plays a fundamental role in the American Convention for being the essential prerequisite for the realization of the other rights.¹¹⁹ When the right to life is not respected, all rights lose their meaning. States have the obligation to guarantee the creation of the necessary conditions to ensure that violations of this inalienable right do not occur as well as the duty to prevent its officials...from violating it.¹²⁰ Compliance with article 4, in connection with article 1.1 of the American Convention not only presupposes that no person may be arbitrarily deprived of his life (negative duty) but also requires, pursuant to the obligation to guarantee the full and free exercise of human rights, that the States adopt any and all necessary measures to protect and preserve the right to life (positive duty) of the individuals under their jurisdiction.¹²¹

156. To comply with this obligation, the Court has stated that "States must adopt the necessary measures, not only at the legislative, administrative and judicial level, by issuing penal norms and establishing a system of justice to prevent, eliminate and punish

¹¹⁹ I/A Court H.R., *Case of the Miguel Castro-Castro Prison*, Judgment of November 25, 2006. Series C No. 160, para. 237; I/A Court H.R., *Case of the Pueblo Bello Massacre*, Judgment of January 31, 2006. Series C No. 140, para. 120; I/A Court HR, *Case of Huilca-Tecse*, Judgment of March 3, 2005. Series C No. 121, para. 65.

¹²⁰ I/A Court HR, *Case of Montero-Aranguren et al. (Detention Center of Catia)*, Judgment of July 5, 2006. Series C No. 150, para. 64; I/A Court HR, *Case of Ximenes-Lopes*. Judgment of July 4, 2006. Series C No. 149, para. 125; I/A Court HR, *Case of Baldeón-García*. Judgment of April 06, 2006. Series C No. 147, para. 83; Also see: United Nations Human Rights Committee, General Comment 6/1982, para. 3 in: *Compilation of General Recommendations Adopted by Human Rights Treaty Bodies*, U.N.Doc.HRI/GEN/1/Rev 1 en 6 (1994); United Nations Human Rights Committee, General Comment 14/1984, para. 1, in: *Compilation of General Recommendations Adopted by Human Rights Treaty Bodies*, U.N.Doc.HRI/GEN/1/Rev 1 en 18 (1994).

¹²¹ I/A Court HR, *Case of Vargas-Areco*. Judgment of September 26, 2006. Series C No. 155, para. 75; I/A Court HR, *Case of the Ituango Massacres*. Judgment of July 1, 2006 Series C No. 148, para. 130; I/A Court HR, *Case of the Sawhoyamaya Indigenous Community*. Judgment of March 29, 2006. Series C No. 146, para. 152.

[...] and protect individuals from the criminal acts of other individuals and to investigate these situations effectively.”¹²²

157. In accordance with the jurisprudence on protection of the inter-American system, for the purposes of establishing the existence of a violation of the rights provided for by the Convention, it is not necessary to determine the guilt of individual perpetrators or their intentions. In the Paniagua Morales case, it was the opinion of the Court that, in order to establish the international responsibility of a State,

[t]he sole requirement is to demonstrate that the State authorities supported or tolerated infringement of the rights recognized in the Convention. Moreover, the State's international responsibility is also at issue when it does not take the necessary steps under its domestic law to identify and, where appropriate, punish the authors of such violations.¹²³

158. Likewise, the inter-American system of human rights has stated that the responsibility of States to act with due diligence in the face of human rights violations extends to the actions of non-state actors, third parties, and private persons. In this respect, the Court has emphasized:

[t]his international responsibility may also be triggered by acts of private persons in principle not attributable to the State. The States Parties to the Convention have obligations *erga omnes* to respect and ensure respect for the norms of protection, and to ensure the effectiveness of the rights enshrined therein in all circumstances and with respect to every person. Those obligations of the State project their effects beyond the relationship between its agents and persons subject to its jurisdiction, for they are also manifested in the positive obligation of the State to adopt the measures necessary to ensure the effective protection of human rights in relations among individuals. The attribution of responsibility to the State for acts of private persons may occur in cases in which the State breaches, by act or omission of its agents when they are in the position of guarantors, those obligations *erga omnes* contained in Articles 1(1) and (2) of the Convention.¹²⁴

159. Supplementing this standard for the attribution of responsibility, the Court has stated in its judgment in the *Pueblo Bello Massacre* case that:

a State cannot be responsible for any human rights violation committed as between private persons in its jurisdiction. In effect, the *erga omnes* nature of the obligations under the Convention to guarantee, entrusted to the States, does not imply the unlimited responsibility of the State vis-à-vis any act or deed by private persons, for its duties to adopt measures of

¹²² I/A Court H.R., *Case of the Pueblo Bello Massacre*, Judgment of January 31, 2006. Series C No. 140, para. 120. Also see I/A Court H.R., *Case of the Miguel Castro-Castro Prison*, Judgment of November 25, 2006. Series C No. 160, para. 237; I/A Court HR, *Case of the "Mapiripán Massacre"*. Judgment of September 15, 2005. Series C No. 134, para. 231; I/A Court HR, *Case of Huilca-Tecse*, Judgment of March 3, 2005. Series C No. 121, para. 66.

¹²³ I/A Court HR, *Case of the "White Van" (Paniagua-Morales et al.)*. Judgment of March 8, 1998. Series C No. 37, para. 91.

¹²⁴ I/A Court HR, *Case of the "Mapiripán Massacre"*. Judgment of September 15, 2005. Series C No. 134, para. 111.

prevention and protection of private persons in their relations among themselves are conditioned on the knowledge of a situation of real and immediate risk to a given individual or group of individuals and the reasonable possibilities of preventing or avoiding that risk. In other words, although an act, omission or deed of a private person may have as a legal consequence a violation of certain human rights of another private person, it is not automatically attributable to the State, for one must take stock of the particular circumstances of the case and the concrete form taken by those obligations to guarantee.¹²⁵

160. To establish such international imputability of acts of third parties as violations attributable to the State, the Court has taken into consideration the case law of the European Court. It has been the latter Court's opinion that state responsibility for violations committed by third persons is applicable when it is shown that the State had knowledge of a situation of real and immediate risk and did not adopt reasonable measures to prevent it,

[b]earing in mind the difficulties in policing modern societies, the unpredictability of human conduct and the operational choices which must be made in terms of priorities and resources, the positive obligation must be interpreted in a way which does not impose an impossible or disproportionate burden on the authorities. Accordingly, not every claimed risk to life can entail for the authorities a Convention requirement to take operational measures to prevent that risk from materialising. For a positive obligation to arise, it must be established that the authorities knew or ought to have known at the time of the existence of a real and immediate risk to the life of an identified individual or individuals from the criminal acts of a third party and that they failed to take measures within the scope of their powers which, judged reasonably, might have been expected to avoid that risk.¹²⁶

161. The Commission concludes that the State has not shown that it adopted suitable measures aimed at finding Laura Berenice Ramos, Claudia Ivette González, and Esmeralda Herrera Monreal alive and preventing their deaths, between the time it was formally reported to the State that they had gone missing and when their bodies were found. The State's omission is particularly grave since as of the date of the facts the State had knowledge of a pattern of violence against women, in which numerous women disappeared and were later found murdered. This knowledge gave rise to an enhanced obligation of the State to provide reinforced protection for women reported as missing.

162. This omission was observed by the National Human Rights Commission in its analysis of the judicial proceedings in the cases of Laura Berenice Ramos, Claudia Ivette González, and Esmeralda Herrera Monreal.¹²⁷ The National Human Rights Commission

¹²⁵ I/A Court H.R., *Case of the Pueblo Bello Massacre*, Judgment of January 31, 2006. Series C No. 140, para. 123.

¹²⁶ European Court of Human Rights, *Kiliç v. Turkey*, Judgment of March 28, 2000, Application No. 22492/93, paras. 62 - 63; *Osman v. the United Kingdom*, Judgment of October 28, 1998, *Reports of Judgments and Decisions 1998-VIII*, paras. 115 - 116; I/A Court H.R., *Case of the Pueblo Bello Massacre*, Judgment of January 31, 2006. Series C No. 140, para. 124.

¹²⁷ *Informe Especial de la Comisión Nacional de los Derechos Humanos sobre los Casos de Homicidios y Desapariciones de Mujeres en el Municipio de Juárez, Chihuahua, 2003* [Special Report of the National Human Rights Commission on the Cases of Homicides and Disappearances of Women in the Municipality of Juárez, Chihuahua, 2003]. Available at: <http://www.senado.gob.mx/content/sp/Reports/chihuahua/>, Annex 5. The National Human Rights Commission carried out an *ex-officio* investigation of the homicides and

states with respect to the three cases that, based on a review of the judicial case files, one does not observe that there was a genuine line of investigation aimed at locating the missing women prior to the moment their bodies were found on November 6, 2001.¹²⁸

163. The evidence now placed at the disposal of the Court proves that Laura Berenice Ramos, 17 years of age and a high school student, was last seen by her father on Friday, September 22, 2001.¹²⁹ After being searched for by her next of kin and not located, and after they had noticed that she hadn't taken any of her personal belongings, such as her purse and telephone, Benita Monárrez, Laura Berenice Ramos's mother, filed a report that she had gone missing on Tuesday, September 25, 2001,¹³⁰ of which there is a written record, and in which she explains the circumstances of her disappearance. Her body was found on November 6, 2001.

164. The only investigative steps taken by the State from September 25, 2001 to November 6, 2001, to find Laura Berenice Ramos alive were the preparation of the data sheet on a missing person, the preparation of a poster announcing her status as missing, the taking of testimony from next of kin and acquaintances,¹³¹ and an official note sent by the Coordinator of the Program of Attention for Crime Victims, ordering the investigation of the disappearance.

165. From the evidence herein provided in the case of Claudia Ivette González, 20 years of age and employed in a *maquiladora*, it can be inferred that on October 12, 2001, she went to work at 3:15 pm and never returned home.¹³² That same day her family member went to the authorities to report that she was missing; there is a written record of

disappearances of women that occurred between 1993 and June 2003, in fulfillment of responsibilities entrusted to it, and in use of its legal authority, as well as in response to society's requirements with respect to the protection and defense of human rights. The National Commission states in its report that: "the National Human Rights Commission assumed jurisdiction over the investigation given the gravity of the facts, as well as the impact that the matter had on society and public opinion; this document also includes the complaints lodged and the documents provided by the next of kin of the complainants, either directly or through non-governmental organizations."

¹²⁸ *Informe Especial de la Comisión Nacional de los Derechos Humanos sobre los Casos de Homicidios y Desapariciones de Mujeres en el Municipio de Juárez, Chihuahua, 2003.* Available at : <http://www.senado.gob.mx/content/sp/Reports/chihuahua/>, Annex 5.

¹²⁹ Missing Person Report No. 225/2001: Laura Berenice Ramos Monárrez, Annex 11, and Appearance of Benita Monárrez Salgado, mother of the victim, before the Office of the Public Prosecutor, September 25, 2001, Annex 12.

¹³⁰ Missing Person Report No. 225/2001: Laura Berenice Ramos Monárrez, Annex 11, and Appearance of Benita Monárrez Salgado, mother of the victim, before the Office of the Public Prosecutor, September 25, 2001, Annex 12..

¹³¹ Witness testimony includes: Benita Monárrez Salgado (September 25, 2001), Annex 14; Daniel Ramos Canales (September 28, 2001), Annex 15; Ana Catalina Solís Gaytán (October 1, 2001), Annex 16; Ivonne Ramos Monárrez (October 1, 2001), Annex 17; Diana América Corral Hernández (October 1, 2001), Annex 18; Rocío Ixtel Núñez Acevedo (October 5, 2001), Annex 19.

¹³² Report on Missing Person No. 234/2001: Claudia Ivette González, Annex 8, and Appearance of Mayela Banda González, sister of the victim, October 12, 2001, Annex 9.

that report.¹³³ Her body was found on November 6, 2001. The only steps taken from the time she was reported as missing on October 12 until her body was found on November 6, 2001, were the preparation of the missing person data sheet, the preparation of a poster announcing her status as missing, the taking of testimony from next of kin and acquaintances,¹³⁴ and an official note sent by the Coordinator of Attention for Crime Victims ordering the investigation into her disappearance.

166. From the evidence herein submitted to the Court regarding the case of Esmeralda Herrera Monreal, 15 years of age, who worked as a maid, it can be inferred that on Monday, October 29, 2001, she went out to work in the morning and never returned home.¹³⁵ Her family members filed a report that she had gone missing on October 30, 2001; there is a written record of that report.¹³⁶ Her dead body was found on November 6, 2001. The only steps taken in this case from the report of her disappearance on October 30 to the finding of her body on November 6, 2001 were the preparation of the missing person data sheet, the preparation of a poster announcing that she was missing, the taking of testimony from one witness, and an official note sent by the Coordinator of Attention for Crime Victims ordering an investigation into her disappearance.

167. In the copy of the internal judicial file provided by the representatives of the victims, there is no record of specific measures taken apart from the aforementioned suggesting a real search for the victims by the authorities during the preliminary inquiries. This statement is based on the fact that the file contains no official documents ordering that the missing posters be distributed or publicized, nor any indication of the places where they were posted. Nor does the file provide evidence of any orders of complementary procedures to confirm the witness testimony taken by the authorities, nor orders to summon other witnesses. In addition, the case file does not indicate what type of follow-up was carried out by the national civilian police to the official note sent by the Coordinator of Attention for Crime Victims ordering the investigation into the disappearances, since there is no evidence of any response to it.

168. A number of international agencies have documented and denounced these discriminatory and dilatory attitudes on the part of state agents in Ciudad Juárez towards the women who had gone missing as of the date of the facts, minimizing the importance

¹³³ Report on Missing Person No. 234/2001: Claudia Ivette González, Annex 8, and Appearance of Mayela Banda González, sister of the victim, October 12, 2001, Annex 9.

¹³⁴ Witness testimony includes: Juana González Flores (October 12, 2001), Annex 20; Ana Isabel Suárez Valenciana (October 17, 2001), Annex 21; Aide Navarrete García (October 16, 2001), Annex 22; Armando Velazco Fernández (October 19, 2001), Annex 23; Verónica Hernández Estrada (October 19, 2001), Annex 24; Efrén Pérez Maese (October 24, 2000), Annex 25; Juan Antonio Martínez Jacobo (October 24, 2000), Annex 26; Víctor Hugo Hernández Bonilla (October 24, 2000), Annex 27; Jesús Moisés Cuellar Juárez (October 25, 2000), Annex 28.

¹³⁵ Missing Person Report No. 241/2001 regarding Esmeralda Herrera Monreal, Annex 13, and Appearance of Irma Monreal Jaime, mother of the victim, October 30, 2001, Annex 29.

¹³⁶ Missing Person Report No. 241/2001 regarding Esmeralda Herrera Monreal, Annex 13, and Appearance of Irma Monreal Jaime, mother of the victim, October 30, 2001, Annex 29.

of searching for them.¹³⁷ This pattern affected mostly young women 15 to 25 years of age. The Commission observed in its report on the situation in Ciudad Juárez that:

[t]he Mexican State, for its part, recognizes that mistakes were made during the first five years that it was confronted with these killings. It acknowledges, for example, that it was not uncommon for the police to tell a family member attempting to report a girl missing to return in 48 hours, when it was clear there might be something to investigate. Both State and non-state representatives indicated that the authorities in Ciudad Juárez would often dismiss initial complaints by saying the victim was out with a boyfriend and would soon return home [...] In this respect, while the State has described efforts aimed at responding more swiftly to the missing person reports, the information received by the Inter-American Commission in cases that date from 2001 indicates that the first investigative measures were adopted, in some cases, after several days.¹³⁸

169. The report published in 2005 by the United Nations Committee on the Elimination of Discrimination against Women describes this situation, which has been unfolding from 1993 to the date of the publication of the report, in the following terms:

[t]he authorities do not immediately investigate the cases which are reported and do not consider themselves obligated to act on reports of abduction; instead, they tell the disappeared persons' families to make inquiries and gather information; days pass before an investigation is opened. In reality, according to civil society organizations and the victims' families, the investigation is never carried out and essential time, during which lives could be saved, is lost since there is evidence that the girls always remain in their killers' hands for several days before they are murdered [...] There are many witnesses to the authorities' indifference to the desperation of families who report a disappearance. They have been made to come again and again to the authorities' offices, and yet they have not been able to get inquiries initiated. Days have passed without action being taken, and they have been told to seek information on their own.¹³⁹

¹³⁷ United Nations, Committee on the Elimination of Discrimination against Women, *Report on Mexico produced by the Committee on the Elimination of Discrimination against Women under article 8 of the Optional Protocol to the Convention, and Reply from the Government of Mexico*, CEDAW/C/2005/OP.8/MEXICO, January 27, 2005, Annex 3b; United Nations, *Informe de la Comisión de Expertos Internacionales de la Organización de las Naciones Unidas, Oficina de las Naciones Unidas contra la Droga y el Delito, sobre la Misión en Ciudad Juárez, Chihuahua, México*, United Nations Office on Drugs and Crime, November 2003, Annex 3a; United Nations, *Report of the Special Rapporteur on Violence against Women, Its Causes and Consequences, Yakin Ertürk*, Integration of the Human Rights of Women and Gender Perspective: Violence against Women, Mission to Mexico E/CN.4/2006/61/Add.4, January 13, 2006, Annex 3c; United Nations, *Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions*, E/CN.4/2000/3, Add.3, Annex 3d; United Nations, *Report of the Special Rapporteur on the Independence of Judges and Lawyers*, E/CN.4/2002/72/Add.1, Annex 3e; Amnesty International, Mexico: *Intolerable Killings: 10 Years of Abductions and Murder of Women in Ciudad Juárez and Chihuahua*, AMR 41/027/2003, Amnesty International, *Ending the Brutal Cycle of Violence against Women in Ciudad Juárez and the city of Chihuahua*, AMR 41/011/2004, Annex 6, and others.

¹³⁸ IACHR, *Report on the Situation of the Rights of Women in Ciudad Juárez, Mexico: The Right to Be Free from Violence and Discrimination* OEA/Ser.L/V/II.117, Doc. 44, March 7, 2003, para. 71, Annex 1.

¹³⁹ United Nations, Committee on the Elimination of Discrimination against Women, *Report on Mexico produced by the Committee on the Elimination of Discrimination against Women under article 8 of the Optional Protocol to the Convention, and reply from the Government of Mexico*, CEDAW/C/2005/OP.8/MEXICO, January 27, 2005, Annex 3b, paras. 75-76.

170. This alarming pattern of response and stereotyped conceptions regarding missing women was also denounced by the National Human Rights Commission in its recommendation 44/98 and by the State Commission to Prevent and Eradicate Violence against Women in Ciudad Juárez, where it is argued that the state officials employed a groundless discourse on the victims as a pretext not to search for them, insinuating they were drug consumers, prostitutes, poor, had no firm ties, etc.¹⁴⁰

171. The Commission finds that in Ciudad Juárez, during the time when the facts occurred, there was a systematic pattern of violations of the human rights of women, characterized by high levels of violence, including disappearances, homicides, and sexual assaults. Because of the features of these crimes and also the complaints of the affected families and of civil society, at the time of the facts the competent authorities well knew of the existence of a grave situation; however, there was a wide gap between the incidence of the problem of violence against women and the quality of the state response to this phenomenon, which propelled the repetition of the incidents; this situation has been extensively documented by international and national organizations, and has been recognized by the State before the Commission and in reports of Mexican state agencies.

172. In this context, the Mexican State did not adopt reasonable measures to protect the life and prevent the murders of Laura Berenice Ramos, Claudia Ivette González, or Esmeralda Herrera Monreal, although it had knowledge of the imminent risk of them being murdered in Ciudad Juárez, having been reported as missing, as of the date of the facts. Accordingly, these three cases were added to the pattern of impunity for acts of violence against women prevailing in Ciudad Juárez at the time of the facts.

173. Furthermore, article 2 of the American Convention provides that:

[w]here the exercise of any of the rights or freedoms referred to in Article 1 is not already ensured by legislative or other provisions, the States Parties undertake to adopt, in accordance with their constitutional processes and the provisions of this Convention, such legislative or other measures as may be necessary to give effect to those rights or freedoms.

174. In its report, regarding the situation of women in Ciudad Juárez, the Commission documented one of the key concerns expressed by the next of kin and by representatives of civil society to the Rapporteurship in February 2002 visit, i.e., the delay of the police in beginning investigations after a report of a missing woman was filed.¹⁴¹ Although at the time of the disappearance of the three victims the State knew of the grave situation caused by murders and violent kidnapping particularly affecting women and girls, there were no policies effectively responding to the missing person reports. In this respect, the absence of directives or protocols is reflected in the lack of official information showing a serious search process in response to the disappearance of Laura Berenice

¹⁴⁰ Recommendation 44/98, National Human Rights Commission, Mexico; Comisión para Prevenir y Erradicar la Violencia contra las Mujeres en Ciudad Juárez, *Informe de Gestión*, noviembre 2003-abril 2004 [Commission for the Prevention and Eradication of Violence against Women in Ciudad Juárez, *Report on Activities*, November 2003-April 2004].

¹⁴¹ IACHR, Report on the *Situation of the Rights of Women in Ciudad Juárez, Mexico: The Right to Be Free from Violence and Discrimination* OEA/Ser.L/V/II.117, Doc. 44, March 7, 2003, para. 54, Annex 1.

Ramos, Claudia Ivette González and Esmeralda Herrera Monreal during the period they were missing. It should also be emphasized that in the cases of Claudia Ivette González and Esmeralda Herrera Monreal, in which officers allegedly told the victims' next of kin that 72 hours had to transpire for the investigation to begin, and that the women had probably gone off with their boyfriends.¹⁴²

175. The Inter-American Court has established that state obligations, under article 2 of the American Convention include "the adoption of measures to suppress laws and practices of any kind that imply a violation of the guarantees established in the Convention, and also the adoption of laws and the implementation of practices leading to the effective observance of the said guarantees."¹⁴³ The information provided by the State during the processing of the case before the IACHR does not indicate any implementation of norms and practices aimed at guaranteeing that there would be an immediate search order after the missing person reports were received, or that there were any sanctions for the state officials' deficient response to the reports. The facts of this case precisely attest to the contrary. Therefore, the Commission considers that the State failed to comply with its obligation under the provisions of article 2 of the American Convention.

176. With the aforementioned background, the Commission requests that the Court find that the State failed to comply with its obligation of guaranteeing the right to life of Claudia Ivette González, Esmeralda Herrera Monreal and Laura Berenice Ramos Monárrez, by adopting measures to prevent their murders, thus violating article 4 of the American Convention, in connection with articles 1.1 and 2 of same.

C. Violation of the rights to a fair trial and to judicial protection.

177. The Inter-American Commission maintains that the Mexican State failed to comply with its obligation to appropriately and effectively investigate the disappearances and subsequent deaths of Claudia Ivette González, Esmeralda Herrera Monreal and Laura Berenice Ramos Monárrez, in violation of articles 8, 25 and 1.1 of the American Convention.

178. Despite the fact that six years have passed, the State has not made any progress in the clarification of the facts or regarding who are the responsible parties. Instead of an investigation aimed at clarifying the facts, the evidence compiled by the PGJE at the crime scene has not been analyzed; key evidence has not been taken for clearing up the facts; the causes of death were never determined; there was no follow-up on key witnesses with information relevant to the investigation, and it has been the families who have investigated and given impetus to the investigations. There was

¹⁴² Amnesty International, *Muertes Intolerables, Diez Años de Desapariciones de Asesinatos de Mujeres en Ciudad Juárez y Chihuahua* [Intolerable Killings: 10 years of Abductions and Murders in Ciudad Juárez and Chihuahua], AMR 41/027/2003, August 11, 2003, AI: AMR 41/026/2003., Available at: <http://web.amnesty.org/library/Index/ESLAMR410262003?open&of=ESL-MEX>, Annex 6.

¹⁴³ I/A Court H.R., *Case of "The Last Temptation of Christ" (Olmedo-Bustos et al.)*, Judgment of February 5, 2001. Series C No. 73, para. 85.

negligence in the handling of the victims' bodies, in their identification, in the preservation of the crime scene and the evidence compiled by the authorities at the site as well as that provided by the victims' next-of-kin, and carelessness regarding the content and organization of the case files. From the beginning of the preliminary inquiry, the line of investigation and its methodology were not clear.

179. Article 8 of the Convention provides that:

[e]very person has the right to a hearing, with due guarantees and within a reasonable time, by a competent, independent, and impartial tribunal, previously established by law, in the substantiation of any accusation of a criminal nature made against him or for the determination of his rights and obligations of a civil, labor, fiscal, or any other nature.

180. Article 25 of the Convention also establishes that:

[e]veryone has the right to simple and prompt recourse, or any other effective recourse, to a competent court or tribunal for protection against acts that violate his fundamental rights recognized by the constitution or laws of the state concerned or by this Convention, even though such violation may have been committed by persons acting in the course of their official duties.

181. For its part, article 1(1) of the American Convention provides that:

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

182. These norms establish the obligation on the part of the State to ensure access to justice with guarantees of legality, independence, and impartiality within a reasonable time period, as well as the general obligation of providing effective judicial recourse against the violation of fundamental rights, including the principle of effectiveness of procedural instruments or mechanisms. Therefore, the duty of States of providing judicial remedies is not limited to formally placing them at the disposal of the victims, but said remedies must be suitable for the remedy the human rights violations that have been the subject of complaints.¹⁴⁴ The Inter-American Court has said that:

¹⁴⁴ In this respect, the Inter-American Court has stated that: "In regards to this case, the Court considers that in order to satisfy the right to access to an effective remedy it is not sufficient that final judgments be delivered in the appeal for legal protection proceedings, ordering protection of plaintiffs' rights. It is also necessary that there are effective mechanisms to execute the decisions or judgments, so that the declared rights are protected effectively. As it is established, one of the effects of the judgment is its binding character. The enforcement of judgments should be considered an integral part of the right to access to the remedy, encompassing also full compliance with the respective decision. The contrary would imply the denial of this right." I/A Court H.R., *Case of Acevedo-Jaramillo et al.*, Judgment of February 07, 2006. Series C No. 144, para. 220.

the absence of an effective remedy to violations of the rights recognized by the Convention is itself a violation of the Convention by the State Party in which the remedy is lacking. In that sense, it should be emphasized that, for such a remedy to exist, it is not sufficient that it be provided for by the Constitution or by law or that it be formally recognized, but rather it must be truly effective in establishing whether there has been a violation of human rights and in providing redress.¹⁴⁵

183. In this respect, the text of article 25 is closely related to article 8(1) that provides to every person the right to a hearing, with due guarantees and within a reasonable time, by an independent and impartial judge or tribunal, and confers on the next of kin of victims the right to an effective investigation by the authorities of the violent death of their loved ones, to have those responsible prosecuted, the appropriate punishments be imposed, and to reparations for the harm suffered.¹⁴⁶ Thus, the Inter-American Court of Human Rights has held that:

under the American Convention, the States Parties are obliged to provide effective judicial remedies to the victims of human rights violations (Article 25), remedies that must be implemented according to the rules of due process of law (Article 8(1)), all within the general obligation of States to ensure to all persons subject to their jurisdiction free and full exercise of the rights established in the Convention (Article 1(1)).¹⁴⁷

184. Inter-American case law has established that when a crime that is ex officio prosecutable is committed, the State is under the obligation to promote and propel the criminal process to its ultimate consequences,¹⁴⁸ and that, in these cases, this is the suitable way to clarify the facts, prosecute those responsible and establish the appropriate criminal punishments, in addition to making other modes of reparation possible.

185. Consequently, the State has the duty to investigate human rights obligations, to prosecute those responsible, and to avoid impunity. The Court has defined impunity as "the total lack of investigation, prosecution, capture, trial and conviction of those responsible for violations of the rights protected by the American Convention,"¹⁴⁹ and has

¹⁴⁵ I/A Court H.R., *Case of the "Street Children" (Villagrán-Morales et al.)*, Judgment of November 19, 1999. Series C No. 63, para. 235 citing I/A Court H.R., *Case of Cesti-Hurtado*. Judgment of September 29, 1999. Series C No. 56, para. 121; I/A Court H.R., *Case of Castillo-Petruzzi et al.*, Judgment of May 30, 1999. Series C No. 52, para. 185; I/A Court H.R., *Judicial Guarantees in States of Emergency (Arts. 27(2), 25 and (8) American Convention on Human Rights)*. Advisory Opinion OC-9/87 of October 6, 1987. Series A No. 9, para. 24.

¹⁴⁶ I/A Court H.R., *Case of Durand and Ugarte*. Judgment of August 16, 2000. Series C No. 68, para. 130.

¹⁴⁷ I/A Court HR, *Case of the Ituango Massacres*. Judgment of July 1, 2006 Series C No. 148, para. 287.

¹⁴⁸ I/A Court HR, *Case of Baldeón-García*. Judgment of April 6, 2006. Series C No. 147; I/A Court H.R., *Case of the Pueblo Bello Massacre*, Judgment of January 31, 2006. Series C No. 140; Also see: Report N° 52/97, Case 11.218, *Arges Sequeira Mangas*, IACHR, *Annual Report 1997*.

¹⁴⁹ In this respect, see: I/A Court H.R., *Case of the Gómez-Paquiyaui Brothers*. Judgment of July 8, 2004. Series C No. 110, para. 148; I/A Court H.R., *Case of the 19 Tradesmen*. Judgment of July 5, 2004. Series C No. 109, para. 175; I/A Court H.R., *Case of Bámaca-Velásquez v. Guatemala*. Reparations and Costs (art. 63.1 American Convention on Human Rights). Judgment of February 22, 2002. Series C No. 91, para. 64

stated that "the State has the obligation to use all the legal means at its disposal to combat that situation, since impunity fosters chronic recidivism of human rights violations, and total defenselessness of victims and their relatives"¹⁵⁰

186. The duty of the state to investigate and punish human rights violations should be undertaken by the states seriously. The Court has established, in this respect, that:

[I]n certain circumstances, it may be difficult to investigate acts that violate an individual's rights. The duty to investigate, like the duty to prevent, is not breached merely because the investigation does not produce a satisfactory result. Nevertheless, it must be undertaken in a serious manner and not as a mere formality preordained to be ineffective. An investigation must have an objective and be assumed by the State as its own legal duty, not as a step taken by private interests that depends upon the initiative of the victim or his family or upon their offer of proof, without an effective search for the truth by the government. This is true regardless of what agent is eventually found responsible for the violation. Where the acts of private parties that violate the Convention are not seriously investigated, those parties are aided in a sense by the government, thereby making the State responsible on the international plane.¹⁵¹

187. Continuous jurisprudence of the inter-American system has established that the State must demonstrate that the investigation carried out domestically has not been the result of a mechanical execution of certain procedural formalities, without the State effectively seeking the truth; it should be an investigation which is immediate, exhaustive, serious, and impartial, and oriented towards exploring all possible investigative lines allowing for the identification of the perpetrators, so that they may be prosecuted and punished. To this end, the Court has specified that the effective determination of the truth within the framework of the obligation to investigate a death must be evident from the first proceedings with all possible diligence.¹⁵² The State can accrue responsibility for not "ordering, practicing, or evaluating" evidence that may be fundamental for the proper clarification of the facts.¹⁵³

188. In this regard, the IACHR has pointed out, in other cases, that in the face of a suspicious death, the State must act in keeping with the standards of due diligence,

¹⁵⁰ I/A Court H.R., *Case of Loayza-Tamayo v. Peru*. Reparations and Costs. Judgment of November 27, 1998. Series C No. 42, paras. 169 and 170.

¹⁵¹ I/A Court H.R., *Case of Velásquez-Rodríguez*. Judgment of July 29, 1988. Series C No. 4, para. 177. The Constitutional Court of Colombia, in turn, has stated that "international law has considered that it is insufficient, for the effective protection of human rights, to merely grant the victims and other harmed parties a compensation for damages, since truth and justice are necessary so that in a society the situations that generated grave human rights violations are not repeated and, moreover, because the recognition of the intrinsic dignity and equal and inalienable rights of all human beings requires that judicial remedies designed by the States be geared towards an integral reparation for the victims and other harmed parties, including a pecuniary compensation and access to justice to learn the truth about the facts, and to seek, through institutional means, just punishment for those responsible. Judgment C-228/02 of April 3, 2002.

¹⁵² I/A Court H.R., *Case of the Miguel Castro-Castro Prison*, Judgment of November 25, 2006. Series C No. 160, para. 383.

¹⁵³ I/A Court H.R., *Case of the "Street Children" (Villagrán-Morales et al.)*, Judgment of November 19, 1999. Series C No. 63, para. 230.

referring, for guidance in this regard, to the "Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions," adopted by the Economic and Social Council of the United Nations by UN Resolution 1989/65.¹⁵⁴

189. These principles establish that in cases such as the instant ones, the investigation must have as its aim to identify the victim, to recover and analyze all the material and documentary evidence, to identify possible witnesses and to take their testimony; determining the cause, manner, and time of death, as well as the procedure, practice, or instrument that may have caused the death; to distinguish among natural death, accidental death, suicide, and homicide; and to identify and apprehend the person or persons who may have participated in the execution.¹⁵⁵

190. The United Nations Manual on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions supplements these principles¹⁵⁶ noting that one of the most important aspects of "full and impartial" investigation of an extralegal, arbitrary, or summary execution is gathering and analyzing the evidence. To this end, the manual establishes that the investigation must contain the following elements:

Processing of the Crime Scene

a. The area around the body should be closed off. Only investigator and their staff should be allowed entry into the area;

k. Any fingerprints should be located, developed, lifted and preserved;

[...]

n. Information should be obtained from scene witnesses, including those who last saw the decedent alive, when, where and under what circumstances;

o. Any relevant papers, records or documents should be saved for evidentiary use and handwriting analysis.

Processing of the Evidence

a. The body must be identified by reliable witnesses and other objective methods;

b. A report should be made detailing any observations at the scene, actions of investigators and disposition of all evidence recovered;

¹⁵⁴ These standards are applicable, e.g., in IACHR, Report N° 10/95, Case 10.580, *Manuel Stalin Bolaños*, Ecuador, Annual Report of the IACHR 1995, OEA/Ser.L/V/II.91, Doc. 7, rev. 3, April 3, 1996, paras. 32 to 34; Report N° 55/97, Case 11.137, *Juan Carlos Abella et al*, Argentina, paras. 413 to 424; and Report N° 48/97, Case 11.411, *"Ejido Morelia"*, Mexico, Annual Report of the IACHR, 1997, OEA/Ser.L/V/II.98, Doc. 7, rev., April 13, 1996, paras. 109 -112.

¹⁵⁵ United Nations, Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions Annex to Resolution 1989/65 of the Economic and Social Council.

¹⁵⁶ UN, document ST/CSDHA/12 (1991).

c. Property forms listing all evidence should be completed;

d. Evidence must be properly collected, handled, packaged, labeled and placed in safekeeping to prevent contamination and loss of evidence.

191. In addition, it is necessary to investigate the crime scene exhaustively, autopsies should be performed and human remains analyzed rigorously by competent professionals, and using the most appropriate procedures. In the case of homicides, specific evidence should be preserved if sexual violence is suspected.¹⁵⁷

192. Mindful of those standards, the Commission wishes to highlight that the three victims were formally reported to the State as missing on September 25, 2001 (Laura Berenice Ramos Monárrez), October 12, 2001 (Claudia Ivette González), and October 30, 2001 (Esmeralda Herrera Monreal). In at least one of these cases the authorities told the next of kin that they had to wait at least 72 hours for the investigation to be launched.¹⁵⁸ The action of the state authorities vis-à-vis these reports of disappearances was limited to formal and administrative steps, without specific measures aimed at finding the victims alive as soon as possible. It can be inferred from the evidence herein submitted to the Court that the only steps taken in each case were the preparation of a missing person report, the preparation of a missing person poster, taking statements from next of kin and acquaintances, and official notes sent to the Chief of the Judicial Police of the State of Chihuahua by the Coordinator of the Program of Attention for Crime Victims ordering the investigation of the disappearance; these orders were never carried out.

193. Regarding the investigation subsequent to the finding of the dead bodies on November 6, 2001, from the criminal court case file submitted to the Commission by the victims' representatives, and which is herein submitted to the Court, it appears that there was no clear line and method of investigation from the outset of preliminary inquiry 27913-01 and omissions, irregularities, and delays from the outset can be observed. For its part, the State has admitted, during processing before the IACHR, that there were irregularities in "many of the inquiries."¹⁵⁹

194. In this respect, the National Human Rights Commission, reviewed, for the three instant cases, the procedures carried out by public officials in 2003, in order to examine the actions and omissions incurred in the preliminary inquiry, and found some irregularities. Among these, the commission noted the lack of decisions by the Public

¹⁵⁷ Oral, vaginal, and rectal fluid should be saved, as well as foreign and pubic hair of the victim. . United Nations Manual on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, U.N. Doc. E/ST/CSDHA/12 (1991), paras. 29-30.

¹⁵⁸ It should be kept in mind that Claudia Ivette disappeared on October 10, 2001, and that this statement on the part of State authorities was issued on October 12, 2001. It is indisputable that in the case of a missing person, the first hours are essential, even more if the disappearance occurred in the context of a pattern of violence against women, such as that prevailing in Ciudad Juárez.

¹⁵⁹ Communication of the State OEA-02322 of September 27, 2006, regarding the case of Esmeralda Herrera Monreal; communication of the Mexican State OEA-02175 of September 11, 2006, regarding the cases of Claudia Ivette González and Laura Berenice Ramos Monárrez, IACHR case file, Appendix 5.

Ministry to order the presentation of key witnesses, including one witness who leases the area of the cotton field and one of the witnesses who stated that she seen Víctor Javier García Uribe in the area of the cotton field.¹⁶⁰ In addition, the National Human Rights Commission notes that other witnesses who work in the cotton field and who were mentioned by the witness who leased the cotton field were not summoned to testify, and that the scientific studies necessary were not performed on the bodies and bony remains to identify them.¹⁶¹ The National Human Rights Commission hence concluded in 2003 that the institution of the Public Ministry "on moving away from the principle of legality in its actions, violated the principle of due diligence, and with its omissions violated the right of access to justice and legal counsel."¹⁶²

195. Moreover, the National Human Rights Commission concluded that the Public Ministry, from the outset, did not have the will to continue an investigation that was pending for it to resolve regarding Víctor Javier García Uribe, but rather, lacking legal grounds, it linked him to the investigation of the homicides of the eight victims located in the cotton field.¹⁶³ This is because, as the National Human Rights Commission sees it, there was evidence that led to the presumption that the Public Ministry, before issuing the arrest warrant, already had the suspect in its custody.¹⁶⁴

196. There is nothing in the record of the investigation indicating who found the bodies on November 6, 2001, or that the finding was made by state authorities. According to one witness's deposition, on November 10, 2001, Mr. Luis Córdova Tostado,¹⁶⁵ a tenant leasing the cotton land next to the canal where the bodies of the victims were found, said that he learned from his son, Ricardo Córdova, that the bodies of some women had been discovered in the canal where the cotton crops are. The statement of Ricardo Córdova is not in the copy of the record submitted to the IACHR by the victims' representatives and their next of kin, which prevents determining whether he was or not questioned regarding the facts.

¹⁶⁰ *Informe Especial de la Comisión Nacional de los Derechos Humanos sobre los Casos de Homicidios y Desapariciones de Mujeres en el Municipio de Juárez, Chihuahua, 2003.* Available at: <http://www.senado.gob.mx/content/sp/Reports/chihuahua/>, Annex 5.

¹⁶¹ *Informe Especial de la Comisión Nacional de los Derechos Humanos sobre los Casos de Homicidios y Desapariciones de Mujeres en el Municipio de Juárez, Chihuahua, 2003.* Available at: <http://www.senado.gob.mx/content/sp/Reports/chihuahua/>, Annex 5.

¹⁶² *Informe Especial de la Comisión Nacional de los Derechos Humanos sobre los Casos de Homicidios y Desapariciones de Mujeres en el Municipio de Juárez, Chihuahua, 2003.* Available at: <http://www.senado.gob.mx/content/sp/Reports/chihuahua/>, Annex 5.

¹⁶³ *Informe Especial de la Comisión Nacional de los Derechos Humanos sobre los Casos de Homicidios y Desapariciones de Mujeres en el Municipio de Juárez, Chihuahua, 2003.* Available at: <http://www.senado.gob.mx/content/sp/Reports/chihuahua/>, Annex 5.

¹⁶⁴ *Informe Especial de la Comisión Nacional de los Derechos Humanos sobre los Casos de Homicidios y Desapariciones de Mujeres en el Municipio de Juárez, Chihuahua, 2003.* Available at: <http://www.senado.gob.mx/content/sp/Reports/chihuahua/>, Annex 5.

¹⁶⁵ Deposition of Mr. Luis Córdova Tostado, November 10, 2001, Annex 43.

197. There is no information explaining the reasons and manner in which the police arrived at the scene where the bodies lay. What can be found in the record is a November 6, 2001 notice, stating that an agent of the Office of the Attorney General assigned to the Public Prosecutor was contacted by the radio operator of the State Judicial Police requesting that their presence on the land where female bodies were discovered.¹⁶⁶ There is no record, if there was any, of the testimony of the police officers who initially went to the site, or of a police report describing the exact circumstances surrounding the arrests of Víctor Javier García Uribe and Gustavo González Meza.

198. The record of the removal of the bodies¹⁶⁷ does not describe the methods used to collect and preserve evidence according to principles applicable to the chain of custody. There is no decision, official document or identification of the place where the evidentiary items were held. Many of these irregularities in the handling and preservation of evidence have been document by the Office of the Special Prosecutor for Crimes Related to Homicides of Women [*Fiscalía Especial para la Atención de Delitos Relacionados con Los Homicidios de Mujeres*] in the Municipality of Ciudad Juárez, in its review of the records of the murders of women in Ciudad Juárez, including the instant cases.¹⁶⁸

199. The next of kin of the victims made two searches for additional evidence on February 24 and 25, 2002, at the site of the discovery of the bodies, and found a significant number of evidentiary items related to the case.¹⁶⁹ This initiative, as they explained during the processing of the case before the Commission, was carried out in the face of the absence of procedures and evidence regarding the guilt of men who were "innocent prisoners,"¹⁷⁰ and in order to find possible items of evidence to clarify the facts, and, "considering the desperate wishes of the next of kin"¹⁷¹ to find some additional signs that could prove that the bodies handed over to them belonged to their daughters or sisters. Although there was an order to seal off the site, it was not carried out in practice, since the next of kin and friends of the victims could go in and out of the property unrestrictedly, and moreover confirmed that the site was not cordoned off. All this also

¹⁶⁶ Document with no number, dated November 6, 2001, containing a notice, dated November 6, 2001, of a decision to open a case file, registered as Preliminary Inquiry 27913/01-1501, Annex 38.

¹⁶⁷ Official communication [*Fe Ministerial*] of November 6, 2001, at 10:00 hours, signed by the agent of the Prosecutor's Office Lic. Cesar Octavio Rivas Ávila, AP 27913-01, Annex 33.

¹⁶⁸ First three reports of the Office of the Special Prosecutor for Attention to Crimes Related to Homicides of Women in the Municipality of Juárez, Chihuahua (June, 2004, October 2004, January 2005), Annexes 79, 80 and 81. These reports present analysis and investigation from the technical legal standpoint, of official documents from the prosecutor [*constancias ministeriales*] as well as concrete data covering more than 10 years during which there have been homicides and disappearances of women in Ciudad Juárez.

¹⁶⁹ Record of collection of evidence carried out by the next of kin of the victims on February 24, 2002, signed by Lic. Mayte Espinoza, agent of the Office of the Public Prosecutor, Annex 63, and Record of collection of evidence carried out by the next of kin of the victims, the Office of the Prosecutor, and the Technical Office for Expert Services, on February 25, 2002, signed by Lic. César Octavio Rivas Ávila, agent of the Office of the Public Prosecutor, Annex 64.

¹⁷⁰ Communication from the petitioners to Case 12.498, Laura Berenice Ramos Monárrez, of September 3, 2006, IACHR case file, Appendix 5.

¹⁷¹ Communication from the petitioners to Case 12.497, Esmeralda Herrera Monreal, of August 25, 2005, IACHR case file, Appendix 5.

demonstrates the lack of rigor in the inspection of the crime scene made by the authorities. These latter points have not been contested by the State.

200. The Commission notes that regarding the traces collected at the site where the bodies were discovered, including, *inter alia*, hair, blood, garments of the possible victims, pieces of plastic, diverse containers, earth samples, and bony remains,¹⁷² there is no record in the court file, a copy of which is herein attached, of what tests were eventually performed, nor their results.

201. Although there are records indicating that traces of hematic tissue were not found on the garments and/or objects examined, and which were collected on February 24 and 25, 2002, the lack of rigor in the analysis is clear, since the evidentiary items used for this purpose are not specified.¹⁷³ In addition, from the items of evidence upon which a hematologic test was performed, the Commission notes that they were not compared, or that additional procedures were practiced based on said information.¹⁷⁴ Moreover, certain essential procedures could not be carried out for lack of samples, such as toxicological and semenologic tests.¹⁷⁵ There is no record, either, indicating the chain of custody or the results of the analysis of evidence collected by the next of kin on February 24 and 25, 2002.

202. There is also a considerable number of serious irregularities and inconsistencies in the process of scientific identification of the victims, which brought special anguish and suffering to their next of kin.¹⁷⁶ The State admitted during the processing before the IACHR that it had to assuage concerns of the next of kin that had arisen from the contradictory results of the DNA tests practiced in 2001 and 2002. In this regard, the National Commission on Human Rights expressed in its 2003 report that:

¹⁷² Official communication No. 1690 issued on November 13, 2001 by Lic. Oscar Manfés Grijalva, Chief of the Technical Office for Expert Services and Forensic Medicine, Annex 44.

¹⁷³ Official communication No. 0337/2002 of March 18, 2002, concluding that on the garments and/or objects analyzed (without mentioning which ones), collected on February 24, 2002, no vestiges of hematic tissue were found, Annex 65. In addition, the file contains Official communication No. 0338/2002 of March 18, 2002, concluding that on the garments and/or objects analyzed (without mentioning which ones), collected on February 25, 2002, no vestiges of hematic tissue were found, Annex 66.

¹⁷⁴ In Official communication No. 1342/2001 of November 14, 2001, the chemical expert, with respect to a hematological study, established proof of identification of blood peroxidase, and vestiges of hematic tissue belonging to blood types A, B, and O in 8 evidentiary samples, Annex 45.

¹⁷⁵ Official communications Nos. 1340/01 and 1341/01 of November 14, 2001, issued by Forensic Expert Gabriela Espino Rodríguez, Annexes 46 and 47. In addition, the file contains the statement regarding the blood type of the unidentified deceased female No. 188/01, in Official Communication 1335/01 of November 14, 2001, Annex 48, and the statement that blood type tests could not be performed on the deceased females Nos. 189 and 190, because there were no available samples of hematic tissue, due to the fact that they were reduced to bone tissue, in Official Communication 1339/2001, Annex 49.

¹⁷⁶ For example, the following identification tests were not performed: description of bony and dental matter found on her body; attached skin and soft tissue; description of belongings; estimation of sex; estimation of race; determination of age; date of death, and cause of death.

[a]s for the process of identifying the victims of the crime, it was possible to observe the lack of adequate methods, for in most of the cases there was no study for identification based on DNA analysis, and the respective comparisons with the possible family members, for merely empirical criteria were used to identify the victims, which have not always been accepted.... The evidence that was obtained made it possible to observe that on trying to identify eight corpses using the DNA test, the result was that the victim did not correspond to the data of the family members who had previously identified her, and who appear as the injured parties in the indictment, from which a lack of seriousness in the work of the investigation is manifest, as well as in the information provided to the next of kin to the effect that the body found was indeed their relative [...]¹⁷⁷

203. The victims initially were identified only by their next of kin and without scientific confirmation; the bodies were handed over to the next of kin without certainty regarding their identity.¹⁷⁸

204. The next of kin constantly insisted on the need to verify the identity of the remains. The files, however, indicate that the competent authorities did not respond to these requests in a timely fashion and when they finally took steps ostensibly to this end, they were not taken with due diligence and produced no results. In this respect, it is the opinion of the Commission that in a criminal investigation of a violent death of a person, the first and most essential thing is to establish with complete certainty the identity of the remains.

205. The State recognized during the processing before the Commission that four years after the discovery of the remains of Claudia Ivette González, Esmeralda Herrera and Laura Berenice Ramos, it has only recently entrusted the Argentine Forensic Anthropology Team with the determination of the causes, forms, and mode of death was entrusted to the Argentine Forensic Anthropology Team, since, as established in the autopsy reports, the causes were not determined.¹⁷⁹

¹⁷⁷ *Informe Especial de la Comisión Nacional de los Derechos Humanos sobre los Casos de Homicidios y Desapariciones de Mujeres en el Municipio de Juárez, Chihuahua, 2003.* Available at: <http://www.senado.gob.mx/content/sp/Reports/chihuahua/>, Annex 5.

¹⁷⁸ Deposition of Adrián Herrera Monreal, identifying the body of his sister Esmeralda Herrera Monreal, dated November 16, 2001, Annex 54; Deposition of Antonio Herrera Rodríguez, identifying the body of his daughter Esmeralda Herrera Monreal, dated November 16, 2001, Annex 55; Appearance of Benita Monárrez Salgado: identification of the body of Laura Berenice Ramos, dated March 22, 2002, Annex 67; Deposition of Pablo Monárrez Salgado identifying the body of his niece Laura Berenice Ramos, dated March 22, 2002, Annex 68; Deposition of Mayela Banda González identifying the body of Claudia Ivette González, dated November 15, 2001, Annex 50; Communication of Lic. Zulema Bolívar García, Office of the Special Prosecutor for the Investigation of Homicides of Women, Ciudad Juárez, Mexico, November 15, 2001 (Claudia Ivette González), Annex 53; Communication of Lic. Zulema Bolívar García, Office of the Special Prosecutor for the Investigation of Homicides of Women, Ciudad Juárez, Mexico, November 16, 2001 (Esmeralda Herrera Monreal), Annex 57, Communication of Lic. Zulema Bolívar García, Office of the Special Prosecutor for the Investigation of Homicides of Women, Ciudad Juárez, Mexico, March 22, 2002 (Laura Berenice Ramos), Annex 70.

¹⁷⁹ A forensic medical report of October 25, 2003 states that it is not possible to establish the cause of death in the case of skeletal remains No. 189/01 and must go as undetermined, and the date of death is approximately 4 to 5 weeks before their discovery, Annex 76. A forensic medical report of October 25, 2003 states that it is not possible to establish the cause of death in the case of skeletal remains No. 188/01 and must go as undetermined, and the date of death is approximately 8 to 12 days, Annex 75. Official

206. The process of identification of those responsible was not handled, either, in a manner consistent with the objective of clarifying the facts. On November 9, 2001 Víctor Javier García Uribe and Gustavo González Meza were arrested as suspects of the murders, and on November 15, 2001¹⁸⁰ a formal order to retain them in custody was issued. The criminal proceedings against Víctor Javier García Uribe and Gustavo González Meza were rife with irregularities, inconsistencies, and contradictions from the beginning; this is readily apparent from the evidence that is annexed herein.

207. The State itself recognized during the processing before the Commission that one of the arguments of the Justice of the Fourth Criminal Chamber of the Supreme Court of Justice of Chihuahua to overturn the conviction of Víctor Javier García Uribe was that "the confessions of guilt of Víctor Javier García Uribe and Gustavo González Meza were invalid, because they had been obtained as a result of an unlawful arrest, and were characterized by being inconsistent."¹⁸¹

208. Several Mexican and international agencies have noted the irregularities in the criminal proceedings brought against Víctor Javier García Uribe and Gustavo González Meza, which affected and diverted the continuation of the investigation of the instant cases. In Mexico, the National Human Rights Commission issued Official Note 004191 of February 27, 2004, which indicates the existence of several irregularities in the criminal proceeding against the two suspects. Specifically, in relation to the statements given by the accused in the case, the National Commission was of the opinion that:

[t]hey coincide in their content and in some parts one can note a reproduction in which one can find complete lines in which the statement is identical in terms of what both of them said; in addition to the foregoing, one could note the similarity in the description and specification of various items of apparel that each of the victims was wearing the day of the facts, as well as their physical characteristics, the location where they were executed, and the circumstances of manner, time, and place; accordingly, it was questionable that the injured parties had recalled such specific details, despite the fact that more than a year had passed since the first homicide of which they were accused, together with the fact that they were under the influence of drugs, as well as the effects of inebriating drinks, from which it appears that the statements given to the prosecutorial authority were presumably coerced.¹⁸²

209. The National Human Rights Commission concluded that the statements were taken under coercion, and also found that there was evidence indicating that the accused were subjected to grave suffering with the aim of obtaining confessions; accordingly, that

Communications Nos. 3289/2003 and 2390/2003, Annex 77, no. 48/02 of October 25, signed by the forensic scientist Dr. Enrique Silva Pérez.

¹⁸⁰ Warrant for the arrest of Víctor García Uribe and Gustavo González Meza, issued by the Judge of the Third Criminal Court of the Bravos District, Chihuahua, November 15, 2001, Annex 52.

¹⁸¹ Communication from the State OEA-02639 of November 30, 2005 regarding Case 12.496 Claudia Ivette González, IACHR case file, Appendix 5.

¹⁸² Official communication No. V2/004191 of February 27, 2004, issued by the National Human Rights Commission, signed by Dr. Raúl Plascencia Villanueva, Annex 78.

situation must be considered "grave, degrading, and inhumane." The Commission reiterates that considering this background it granted precautionary measures on February 11, 2003, to protect the lives and physical integrity of Víctor Javier García Uribe and Gustavo González in prison, and of their next of kin, and lawyer. After the death of González Meza, the Commission decided to extend the protective measure in favor of Víctor García Uribe.¹⁸³

210. The report by the Commission of International Experts of the United Nations Office on Drugs and Crime also mentions that:

[f]inally, in the "Cerillo" case, the two accused also complained that they had been tortured. The judge rejected the allegations without taking any steps whatsoever to look into them. The medical reports in the case, issued by the medical services of the CERESO of Juárez at the time the detainees entered the prison, refer to multiple burns on the genitals and the case includes photographs in which the lesions can be seen clearly.¹⁸⁴ The report concludes: "the failure to investigate the complaints, and the acceptance of the confessions and testimonies in such conditions as evidence validly obtained, are injurious to the rights of those who suffer such situations, and those of the victims and their next-of-kin who have a right to have the criminal procedure hypothesis solidly grounded, and be directed against the accused, with respect to whose responsibility any rational doubt has been be refuted. Judicial and prosecutorial inactivity fosters the repeated use of such methods by officers of the judicial police."¹⁸⁵

211. These criminal proceedings delayed the inquiries regarding the Campo Algodonero murders: the State maintains that after the conviction of Víctor Javier García Uribe was overturned, it had to restart the investigations in order to "obtain evidentiary items that will make it possible to establish the historic truth regarding the facts, as well as the identity, location, and arrest of those responsible."

212. There is international consensus regarding the negative impact that these irregularities have had, especially in the early stages of the cases, as well as the lack of prosecution and punishment.¹⁸⁶ The investigative stage is crucial in cases of violence against women, and both in Ciudad Juárez and generally, "the importance of a proper investigation cannot be overestimated, because failures in this respect tend to prevent or hinder subsequent efforts towards identifying, prosecuting, and punishing those responsible," which has occurred in the instant cases.¹⁸⁷

¹⁸³ Communication of the IACHR to the Mexican State, dated February 11, 2003, IACHR case file, Appendix 5.

¹⁸⁴ United Nations, *Informe de la Comisión de Expertos Internacionales de la Organización de las Naciones Unidas, Oficina de las Naciones Unidas contra la Droga y el Delito, sobre la Misión en Ciudad Juárez, Chihuahua, México*, United Nations Office on Drugs and Crime, November 2003, p. 23, Annex 3a

¹⁸⁵ United Nations, *Informe de la Comisión de Expertos Internacionales de la Organización de las Naciones Unidas, Oficina de las Naciones Unidas contra la Droga y el Delito, sobre la Misión en Ciudad Juárez, Chihuahua, México*, United Nations Office on Drugs and Crime, November 2003, pp. 20-21, Annex 3a.

¹⁸⁶ IACHR, *Report on the Situation of the Rights of Women in Ciudad Juárez, Mexico: The Right to Be Free from Violence and Discrimination* OEA/Ser.L/V/II.117, Doc. 44, March 7, 2003, para. 136, Annex 1.

¹⁸⁷ IACHR, *Report on the Situation of the Rights of Women in Ciudad Juárez, Mexico: The Right to Be Free from Violence and Discrimination* OEA/Ser.L/V/II.117, Doc. 44, March 7, 2003, para. 137, Annex 1;

213. The public officials responsible for grave acts of obstruction of justice during the preliminary inquiries have not been punished. During the processing before the Commission, the State did not go beyond informing that it had started a process to clarify the responsibility of those public servants who had participated in the investigation of different homicides of women in Ciudad Juárez, but did not specify if among them were the eight *Campo Algodonero* cases.¹⁸⁸ However, as the Court can see, the State has not yet provided information regarding concrete results of the investigations related to the three instant cases, nor has produced any documentation regarding them, if it exists. It is the opinion of the Commission that this delay constitutes an important aspect of impunity in the face of acts of violence against women.

214. In sum, there has been a series of irregularities during the investigation of the cases of Claudia Ivette González, Esmeralda Herrera Monreal and Laura Berenice Ramos, including, *inter alia*, the failure to engage in an immediate search after the victims went missing; the absence of a clear line and methodology of investigation from the beginning of preliminary inquiry 27913-01; the lack of information in the record on the form and manner in which the dead bodies were discovered; delays and inconsistencies in the scientific identification of the victims; the lack of determination of the cause and manner of death of the victims; deficiencies in the handling and in the analysis of evidence collected; the lack of rigor in the custody of essential evidence, where not even a note exists regarding the place where it was being kept; and the failures in the preservation of the crime scene, which was not properly sealed off, nor guarded; the diversion of the investigation due to irregularities in the determination of the alleged guilt of Víctor Javier García Uribe and Gustavo González Meza, and the lack of sanctions for public officials who participated in the preliminary inquiries of the case, and did not comply with their duties under law.

215. Therefore, regarding this matter, the negligence with which the Mexican prosecutor's office, judicial police, and judiciary acted, contributing to the covering up of those responsible, in spite of the fact that the international community has rejected the grave deficiencies leading to impunity and the hiding of the truth of the events.

216. Regarding the excessive duration of the investigations in the instant case, which remain open and with no signs of being solved, in its judgment regarding the Case of the 19 Tradesmen Vs. Colombia, the Court stated that it is up to the State to explain and prove why it has required more time that would be reasonable, in principle, to deliver final judgment in a specific case, according to the aforementioned criteria¹⁸⁹ In this respect, it is important to highlight that in cases such as the instant case, the authorities must act

IACHR, *Access to Justice for Women Victims of Violence in the Americas*, OEA/Ser. L/V/II. doc.68, January 20, 2007, Annex 2.

¹⁸⁸ Disciplinary and criminal proceedings against officials accused of irregularities in the investigation of the homicides of women and girls in the State of Chihuahua. None of these documents, which were provided by the State during the processing of the case before the IACHR, are related to investigations of irregularities in cases subject of this application. Annex 96.

¹⁸⁹ I/A Court H.R., *Case of the 19 Tradesmen*. Judgment of July 5, 2004. Series C No. 109, para. 191.

on their own motion and further their investigation, and not make the burden of the initiative lie on the next of kin,¹⁹⁰ as has occurred in the instant cases. Suffice it to mention, for example, that between 2003 and 2006, when the Office of the Attorney General of the Republic held the records as it exercised its right to jurisdiction, there was no procedural or investigative action.

217. The delay in the investigation, and its insufficient character, as well as the failure of the State to provide timely and complete information to the next of kin, constitute a serious violation of the right to prompt and efficient judicial recourse. The delay and deficiency of all State efforts to investigate the grave allegations lodged by the next of kin in national jurisdictional venues has prevented them from exercising their right to justice and their right to know the truth regarding what happened to Claudia Ivette, Esmeralda and Laura Berenice.

218. In the instant case, the State has not taken the necessary measures to comply with its obligation to investigate, prosecute, and punish the responsible parties and to provide reparations to the victims and their next of kin.

219. The Court has reiterated on several occasions that every person, including the next of kin of victims of grave human rights violations, has the right to know the truth. Consequently, the next of kin of the victims and society as a whole must be informed of everything that happened concerning such violations.¹⁹¹

220. Regarding the application of the conventional right to truth to a case of forced disappearance of persons, the Inter-American Court has indicated that:

the right to the truth is subsumed in the right of the victim or his next of kin to obtain clarification of the facts relating to the violations and the corresponding responsibilities from the competent State organs, through the investigation and prosecution established in Articles 8 and 25 of the Convention.¹⁹²

221. Six years after the facts, Mexican society still does not know the truth regarding what happened to the victims. The next of kin and Mexican society do not know the names of the guilty parties and they have not been informed regarding the circumstances surrounding the facts. Each and every one of the persons who participated in the disappearance and subsequent death of Claudia Ivette González, Esmeralda Herrera and Laura Berenice Ramos are cloaked with impunity.

¹⁹⁰ I/A Court H.R., *Case of Juan Humberto Sánchez*. Judgment of June 7, 2003. Series C No. 99, para. 132.

¹⁹¹ I/A Court H.R., *Case of Carpio-Nicolle et al.*. Judgment of November 22, 2004. Series C No. 117, para. 128; I/A Court H.R., *Case of the Plan de Sánchez Massacre*. Judgment of November 19, 2004. Series C No. 116, para. 97; I/A Court H.R., *Case of Tibí*. Judgment of September 7, 2004. Series C No. 114, pára. 257.

¹⁹² I/A Court H.R., *Case of Bámaca-Velásquez*. Judgment of November 25, 2000. Series C No. 70, para. 201.

222. Indeed, the Commission notes that despite the fact that the State acknowledged the existence of irregularities in the investigation, it has not been judicially established who are the abettors and perpetrators of the crime, nor has an appropriate punishment been handed down.

223. The negligent actions on the part of the Mexican judicial authorities have constituted an obstructing mechanism whose purpose is to evade complying with the international obligation of the State of investigating, prosecuting, and punishing those responsible. To date the victims' next of kin have not received any response from the State regarding the circumstances surrounding the facts and of who are the responsible parties. The profound harm caused by the deaths of Claudia Ivette, Esmeralda, and Laura Berenice has not been repaired and the guilty parties have not been punished. To the contrary, the crimes remain under absolute impunity. Consequently, it is evident that the State of Mexico deprived the victims' next of kin of their rights to judicial recourse and to be heard by independent and impartial tribunals, with due guarantees and within a reasonable time, all in clear violation of articles 25 and 8 of the American Convention.

224. Regarding the obligation, guaranteed by article 2 of the American Convention, to adopt domestic legislative measures, although at the time of the disappearances and subsequent deaths of the three victims the State was aware of the grave situation involving murders and violent kidnappings of women and girls, and of the similar characteristics of these incidents and of the victims' profiles, there were no policies nor procedures in place to ensure an immediate, exhaustive, serious, and impartial investigation of these facts, in accordance with the State's duty to act with due diligence. The response of the State was deficient in all phases of the investigative process, from the time it received the missing person reports.

225. In this respect, among other institutions, the National Commission on Human Rights issued specific recommendations to the State dating from 1998 to the end of improving the investigative procedures in these cases; however, the Inter-American Commission observed during its visit of February 2002 that these recommendations did not receive adequate follow-up.¹⁹³ The IACHR concluded in its 2003 report that prevailing violence against women in Ciudad Juárez required that the State implement concrete measures to, *inter alia*, effectively investigate the cases, in order to prevent the recurrence of acts of violence and to protect public safety, to reinforce the administration of justice, and to hand down administrative sanctions to anybody who did not apply diligence to his or her duties.¹⁹⁴ The lack of implementation of measures to improve upon the failures detected in the different phases of the investigative process produced a pattern of impunity vis-à-vis the cases of violence against women. The cases of Laura Berenice Ramos, Esmeralda Herrera Monreal and Claudia Ivette González are emblematic of this and,

¹⁹³ IACHR, *Report on the Situation of the Rights of Women in Ciudad Juárez, Mexico: The Right to Be Free from Violence and Discrimination* OEA/Ser.L/V/II.117, Doc. 44, March 7, 2003, para. 75, Annex 1.

¹⁹⁴ IACHR, *Report on the Situation of the Rights of Women in Ciudad Juárez, Mexico: The Right to Be Free from Violence and Discrimination* OEA/Ser.L/V/II.117, Doc. 44, March 7, 2003, section on recommendations, Annex 1.

consequently, of the failure of the State to comply with the obligation imposed on it by article 2 of the American Convention.

226. Based on the foregoing considerations, the Commission requests that the Court find that the State has violated the rights to a fair trial and to judicial protection, pursuant to articles 8.1 and 25, with prejudice to the victims of the instant case and their next of kin, and that it has likewise failed to comply with its duties under articles 1.1 and 2 of the treaty.

D. Violation of the rights of the child

227. Article 19 of the American Convention provides that "every minor child has the right to the measures of protection required by his condition as a minor on the part of his family, society, and the state."

228. The values of a society are deeply reflected in the manner in which it treats its children. Within the regional and universal systems of human rights it has been agreed to grant the rights of children special priority and protection, because the young people of our hemisphere represent our future possibilities for creating "a framework of democratic institutions, a system of personal liberty and social justice based on respect for the essential rights of man." It is for this reason that article 19 provides special mechanisms for the protection of children fitting to their vulnerability as minors, and special importance should be attached to compliance with this obligation.

229. This Court has held that children "have the same rights as all human [...] and also special rights derived from their condition, and these are accompanied by specific duties of the family, society, and the State."¹⁹⁵

230. Article 19 of the American Convention must be understood as a supplementary right established by the treaty for human beings who, because of their state of physical and emotional development, need special measures of protection.¹⁹⁶ Given the special situation of children, the American Convention requires from the States an obligation of providing them with special protection, beyond the general obligation to respect rights provided for by article 1.1 of same, and which moreover cannot be suspended under any circumstances, pursuant to article 29 of the Convention.¹⁹⁷

¹⁹⁵ I/A Court H.R., *Juridical Condition and Human Rights of the Child*. Advisory Opinion OC-17/02 of August 28, 2002. Series A No. 17, para. 54.

¹⁹⁶ I/A Court H.R., *Juridical Condition and Human Rights of the Child*. Advisory Opinion OC-17/02 of August 28, 2002. Series A No. 17, para. 54. Also see: I/A Court H.R., *Case of the "Juvenile Reeducation Institute"*. Judgment of September 2, 2004. Series C No. 112, para. 147.

¹⁹⁷ In this respect, in General Comment No. 17 on the rights of the child provided for by article 24 of the Covenant on Civil and Political Rights, the Committee on the Covenant stated that said norm recognizes the right of every child, without discrimination of any kind, to the measures of protection required by his or her condition as a minor, from his family, from society, and the State, and it further indicated that the application of this provision entails the adoption of special measures to protect children, in addition to the measures that should be adopted by States pursuant to article 2, to guarantee to all persons the enjoyment of the rights

231. In the process of interpreting article 19 of the American Convention, the provisions of the United Nations Convention on the Rights of the Child¹⁹⁸ should be considered, adding that:

[b]oth the American Convention and the Convention on the Rights of the Child form part of a very comprehensive international *corpus juris* for the protection of the child that should help this Court establish the content and scope of the general provision established in Article 19 of the American Convention.¹⁹⁹

232. Moreover, the Convention of Belém do Pará provides that the State, in applying due diligence in its response to violent acts, shall take special account of the particular exposure to violence and to acts of discrimination that a woman may suffer due to her condition as a minor, among other conditions of risk.²⁰⁰ The IACHR has established that this provision exists because discrimination, in its different manifestations, does not always affect all women equally: there are some women who are even more exposed to the violation of the rights and to acts of violence and discrimination.²⁰¹

233. In sum, universal norms,²⁰² the Convention of Belém do Pará, and article 19 of the American Convention require that special measures be adopted to prevent female children from being victims of human rights violations.²⁰³

established by the Covenant. General Comment No. 17, passed in the 35th regular session of the Committee, 1989.

¹⁹⁸ Ratified by Mexico on September 21, 1990.

¹⁹⁹ I/A Court H.R., *Case of Bulacio*. Judgment of September 18, 2003. Series C No. 100, para. 138; and I/A Court H.R., *Case of the "Street Children" (Villagrán-Morales et al.)*, Judgment of November 19, 1999. Series C No. 63, paras. 146 and 194; I/A Court H.R., *Case of the Gómez-Paquiayauri Brothers*. Judgment of July 8, 2004. Series C No. 110, para. 166, and I/A Court H.R., *Juridical Condition and Human Rights of the Child*. Advisory Opinion OC-17/02 of August 28, 2002. Series A No. 17, para. 24.

²⁰⁰ Article 9, Convención of Belém do Pará.

²⁰¹ IACHR, *Violence and Discrimination against Women in the Armed Conflict in Colombia*, OEA/Ser/L/V/II. 124/Doc.6, October 18, 2006, para. 140.

²⁰² In this respect, the Declaration of the Rights of the Child, proclaimed by the General Assembly in its resolution 1386 (XIV) of November 20, 1959, provides in Principle 2 that: "The child shall enjoy special protection, and shall be given opportunities and facilities, by law and by other means, to enable him to develop physically, mentally, morally, spiritually and socially in a healthy and normal manner and in conditions of freedom and dignity. In the enactment of laws for this purpose, the best interests of the child shall be the paramount consideration."

²⁰³ In this regard, in its Third Report on the Situation of Human Rights in Colombia, the Commission has stated that:

Respect for the rights of the child is a fundamental value in a society that claims to practice social justice and observe human rights. This respect entails offering the child care and protection, basic parameters that guided in the past the theoretical and legal conception of what such rights should embody. It also means recognizing, respecting, and guaranteeing the individual personality of the child as a holder of rights and obligations.

234. The Inter-American Court has established that cases in which the victims of human rights violations are children are especially grave, because they also have "special rights derived from their condition, and these are accompanied by specific duties of the family, society, and the State."²⁰⁴ In this matter, the applicable principle is that of their higher interests, based "the very dignity of the human being, on the characteristics of children themselves, and 'on the need to foster their development, making full use of their potential'."²⁰⁵ This duty is reinforced by the special vulnerability and exposure to acts of violence against women that young female children face, as recognized by the Convention of Belém do Pará. Hence, the Mexican State had a yet stronger duty to protect the human rights of Laura Berenice Ramos and Esmeralda Herrera Monreal, for two reasons: their condition as minors, and the obligation to adopt special measures of protection, prevention, and guarantee.

235. The Court has also established that the State has the duty to adopt any and all positive measures to fully ensure effective enjoyment of the rights of the child.²⁰⁶ However, in the instant case it is clear that Laura Berenice Ramos, age 17, and Esmeralda Herrera Monreal, age 15, were not the subjects of those special measures that their greater vulnerability and sex required.²⁰⁷ Not only did the state agencies charged with enforcing the law fail to act to prevent acts such as those herein described, and to identify and punish those responsible, but those state agencies specifically charged with the protection of children did not intervene in any way, either to prevent these facts, or to propose some kind of solution for the case.

236. In its report on the situation of violence against women in Ciudad Juárez, the IACHR noted that a considerable number of the victims were girls under the age of 18.²⁰⁸ In addition, in its recommendations it establishes the need to ensure that special measures of protection are available for children threatened with gender-based violence, and that the response to gender-based violence against girl children takes into account their special vulnerability.²⁰⁹ In this connection, Amnesty International, in its report on the 2003 murders of Ciudad Juárez documented the fact that most of the persons murdered were women and girls between 13 and 22 years of age, and that there had been at least one

²⁰⁴ I/A Court H.R., *Juridical Condition and Human Rights of the Child*. Advisory Opinion OC-17/02 of August 28, 2002. Series A No. 17, para. 54. Also see: I/A Court H.R., *Case of the "Juvenile Reeducation Institute"*. Judgment of September 2, 2004. Series C No. 112, para. 147.

²⁰⁵ I/A Court HR, *Case of the "Mapiripán Massacre"*. Judgment of September 15, 2005. Series C No. 134, para. 152, and I/A Court H.R., *Juridical Condition and Human Rights of the Child*. Advisory Opinion OC-17/02 of August 28, 2002. Series A No. 17, para. 56.

²⁰⁶ I/A Court H.R., *Juridical Condition and Human Rights of the Child*. Advisory Opinion OC-17/02 of August 28, 2002. Series A No. 17, para. 91.

²⁰⁷ I/A Court H.R., *Case of the "Street Children" (Villagrán-Morales et al.)*, Judgment of November 19, 1999. Series C No. 63, para. 191.

²⁰⁸ IACHR, *Report on the Situation of the Rights of Women in Ciudad Juárez, Mexico: The Right to Be Free from Violence and Discrimination* OEA/Ser.L/V/II.117, Doc. 44, March 7, 2003, para. 121, Annex 1.

²⁰⁹ IACHR, *Report on the Situation of the Rights of Women in Ciudad Juárez, Mexico: The Right to Be Free from Violence and Discrimination* OEA/Ser.L/V/II.117, Doc. 44, March 7, 2003, section on recommendations, Annex 1.

case of an eleven-year old girl.²¹⁰ Amnesty International goes on to say that "this would seem to indicate that being a teenager is one of the selection criteria used by the killers and for this reason the appropriate authorities should devise specific prevention strategies to improve the protection of that vulnerable group."²¹¹ Furthermore, among its recommendations, Amnesty International points to the need to establish an urgent search mechanism in the event that women and girls are reported missing, giving particular attention to cases that conform to the existing pattern and cases of minors.²¹²

237. The reports on missing minor children, examined within the context of prevailing violence which especially affected girls, made the Mexican State's duty to implement effective, special measures for urgent search and protection, in accordance with international human rights precedents, even more imperative. The State was aware that at the time of the facts of the high level of violence that in particular gravely affected minor girls. The Commission notes, however, that at the time of the facts, there were no decisions, directives, nor protocols set in motion to promote immediate, differentiated, and special attention to reports on missing girls, pursuant to article 2 of the American Convention, in spite of their particular vulnerability due to their condition of minor and to their sex, of which the authorities had full knowledge.

238. Based on the foregoing, the Commission requests that the Court find that the Mexican State violated, with prejudice to Laura Berenice Ramos Monárrez and Esmeralda Herrera Monreal, the right to receive special measures of protection, provided for by article 19 of the American Convention on Human Rights, in connection with the provisions of article 1.1 of same, and the duty to adopt domestic legislative and other measures, pursuant to article 2 of the treaty.

E. Violation of the right to humane treatment

239. Article 5 of the Convention, in its relevant part, provides:

1. Every person has the right to have his physical, mental, and moral integrity respected.

240. Regarding the victims' next of kin, the Inter-American Court has established that when fundamental human rights are violated, such as the right to life or the right to humane treatment, the persons closest to the victim may also be considered victims. To determine the condition of victim, the Court considers the closeness of the family

²¹⁰ Amnistía Internacional, *Muertes Intolerables, Diez Años de Desapariciones de Asesinatos de Mujeres en Ciudad Juárez y Chihuahua*, 11 de agosto de 2003, AI: AMR 41/026/2003. Available on Internet: <http://web.amnesty.org/library/Index/ESLAMR410262003?open&of=ESL-MEX>, Annex 6.

²¹¹ Amnistía Internacional, *Muertes Intolerables, Diez Años de Desapariciones de Asesinatos de Mujeres en Ciudad Juárez y Chihuahua*, 11 de agosto de 2003, AI: AMR 41/026/2003. Available on Internet: <http://web.amnesty.org/library/Index/ESLAMR410262003?open&of=ESL-MEX>, Annex 6.

²¹² Amnistía Internacional, *Muertes Intolerables, Diez Años de Desapariciones de Asesinatos de Mujeres en Ciudad Juárez y Chihuahua*, 11 de agosto de 2003, AI: AMR 41/026/2003. Available on Internet: <http://web.amnesty.org/library/Index/ESLAMR410262003?open&of=ESL-MEX>, Annex 6.

000299

relationship, the particular circumstances of the relationship with the victim, the degree to which the family member was a witness of the events related to the disappearance, the degree to which the family member was involved in attempts to obtain information about the disappearance of the victim, and the State's response to the measures taken.²¹³

241. In the Commission's file, there is evidence that the mothers of Claudia Ivette, Esmeralda and Laura Berenice engaged in an active participation in the search for their daughters while they were missing and subsequently in prompting the unsuccessful investigation that has been ongoing for six years within the domestic jurisdiction; that they have been victims of continuous harassment, maltreatment, and intimidation on the part of the authorities and state agents, from the time of the filing of the missing person reports to date; that the remains of their daughters were subjected to mistreatment by the authorities; and that the next of kin of two of the victims, Esmeralda and Laura Berenice, had to wait nearly four years for scientific confirmation of their daughters' identities, after reiteratedly putting pressure on the State to obtain it.

242. In the case of Laura Berenice Ramos, the mother of the victim, from November 6, 2001 to March 20, 2002, repeatedly requested, with no success, to see the body that had been identified as her daughter's. On one occasion, when she expressed that she wished to know whether the remains were or were not those of her daughter, public prosecutor Ms. Laura Herrera replied: "What are some bones in a tub of water going to tell you?" The same prosecutor informed the mother of Laura Berenice Ramos on March 6, 2002, that it was no longer possible to see the body for the purpose of identifying, "since what is left are some bony remains, because in order to perform some studies the skin was removed, and this without my authorization, on the assumption that it was my daughter."

243. In the case of Claudia Ivette González, when her next of kin reported her as missing on October 12, 2001, an agent from the State Judicial Police told a friend of the alleged victim that probably she had gone off with her boyfriend, because girls were "very flirty" and "threw themselves on men." Four weeks after the victim had gone missing, the mother received only a bag of bones. It was very strange to her that in less than a month her body could have decomposed so much. Public prosecutor Ms. Zulema Bolívar told her that it was indeed possible, since the body could have been damaged by animals, rain, or earth. A former prosecutor of the case told the next of kin not to perform any searches or hand out fliers because they were going to exhaust themselves, and not to meet with any organization of "femicide" victims, because "those people only hurt investigations."²¹⁴

244. In the case of Esmeralda Herrera Monreal, when her mother requested that the authorities investigate Eduardo Chávez, who could have had knowledge of her daughter's whereabouts, they answered: "lady, go and find him yourself, and question him, and see what he says, and according to what you find, well, you can come and tell us." When it was reported that she had gone missing, the authorities said to the mother that

²¹³ I/A Court H.R., Case of Bámaca-Velásquez. Judgment of November 25, 2000. Series C No. 70, paras. 162 and 163.

²¹⁴ Petitioners' communication of September 3, 2006.

Esmeralda had probably "gone off with her boyfriend or with a girlfriend," and told her that she herself should go and seek information on her daughter's whereabouts and that she could bring it to the station. The body of the victim, "after only eight days of having disappeared, had no face nor hair; the Judicial [Police] affirmed that animals, wind, and earth had destroyed it. However, the rest of her body was naked and intact."

245. In its visit to Ciudad Juárez, the Rapporteurship documented the fact that on many occasions the next of kin of the victims stated that they had received contradictory and confusing information from the authorities, and that they had been treated despectively and even disrespectfully or aggressively when they tried to obtain information on the investigations.²¹⁵ In its analysis, the Rapporteurship highlighted, using the example of the "campo algodonoero" cases, delays in the scientific confirmation of the identity of the victims, which caused uncertainty to the next of kin regarding the true identity of the remains that they had received, as something particularly grave.²¹⁶

246. Recently, the Committee on the Elimination of All Forms of Discrimination against Women, regarding the treatment of the next of kin of the victims of Ciudad Juárez, stated that:

[t]he meeting with a group of mothers of victims of murders and sexual violence was genuinely moving and powerful. It is inconceivable that people should be so dehumanized and that people who are so humble and battered by life, far from being supported and comforted, are mistreated and even threatened and harassed. The experts heard testimony exposing very serious arbitrariness and irregularities.²¹⁷

247. The Commission has recently expressed, in its report *Access to Justice for Women Victims of Violence in the Americas*, that this treatment violates the rights of the next of kin of victims of acts of violence, and highlights the importance of articles 1 and 2 of the United Nations Code of Conduct for Law Enforcement Officials, which provide that in that in the performance of their duties, law enforcement officials "shall respect and protect human dignity and maintain and uphold the human rights of all persons."²¹⁸ In this report, the Commission expresses its concern regarding the mistreatment that both victims and next of kin may receive when they attempt judicial recourse and to cooperate with investigations, which cause mistrust of the administration of justice and perpetuates

²¹⁵ IACHR, *Report on the Situation of the Rights of Women in Ciudad Juárez, Mexico: The Right to Be Free from Violence and Discrimination* OEA/Ser.L/V/II.117, Doc. 44, March 7, 2003, para. 48, Annex 1.

²¹⁶ IACHR, *Report on the Situation of the Rights of Women in Ciudad Juárez, Mexico: The Right to Be Free from Violence and Discrimination* OEA/Ser.L/V/II.117, Doc. 44, March 7, 2003, para. 47, Annex 1.

²¹⁷ United Nations, Committee on the Elimination of Discrimination against Women, *Report on Mexico produced by the Committee on the Elimination of Discrimination against Women under article 8 of the Optional Protocol to the Convention, and reply from the Government of Mexico*, CEDAW/C/2005/OP.8/MEXICO, January 27, 2005, para. 111.

²¹⁸ IACHR, *Access to Justice for Women Victims of Violence in the Americas*, OEA/Ser. L/V/II. doc.68, January 20, 2007, para. 134, Annex 2.

violence against women as an accepted fact in American societies, in violation of their human rights.²¹⁹

248. The Commission recognizes the recent efforts on the part of the State to provide reparations to the next of kin of the victims through economic, medical, and psychological measures. In this regard, the Commission notes that the right of victims of human rights violations to a comprehensive reparation that is adequate, effective, and prompt" in response to the acts perpetrated, and proportional to the harm suffered.²²⁰ Reparation must be full and complete, and it must include the guarantees of restitution, compensation, rehabilitation, satisfaction, and non-repetition.²²¹ The Commission has also stated that measures of reparation for acts of violence against women should take into consideration the specific needs and perspective of the beneficiaries.²²² Therefore, future State efforts towards reparations for the next of kin of these victims should be implemented in accordance with these international standards, and include the guarantees of restitution, compensation, rehabilitation, satisfaction, and non-repetition.

249. It is the opinion of the Commission that the mental and moral integrity of Josefina González, Irma Monreal and Benita Monárrez were directly affected by the sudden disappearance of their daughters, the fact that they did not know their whereabouts for a considerable period of time, and the lack of investigation of the facts, as well as the treatment that they received from the authorities, which ranged from indifferent to hostile.

250. In this respect, the Court has said that the violation of mental and moral integrity of the next of kin of the victim is increased, *inter alia*, by the refusal of State authorities to open an effective investigation to clarify the events.²²³

251. In sum, the Inter-American Commission requests that the Court find that the Mexican State violated article 5.1 of the American Convention in connection with article 1.1 of same, with prejudice to Josefina González, Irma Monreal and Benita Monárrez, and to the members of the respective nuclear families of the deceased victims.

²¹⁹ IACHR, *Access to Justice for Women Victims of Violence in the Americas*, OEA/Ser. L/V/II. doc.68, January 20, 2007, paras. 172-180, Annex 2.

²²⁰ United Nations, *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*, C.H.R. res. 2005/35, U.N. Doc. E/CN.4/2005/ L.10/Add.11 (2005); *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*, A/RES/60/147 (2005).

²²¹ United Nations, *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*, G.A. Res. 60/147, U.N. Doc. A/RES/60/147 (2005), paras. 19-23.

²²² IACHR, *Violence and Discrimination against Women in the Armed Conflict in Colombia*, OEA/Ser/L/V/II. 124/Doc.6, October 18, 2006, Recommendation 63.

²²³ I/A Court H.R., *Case of Goiburú et al.*, Merits, Reparations and Costs. Judgment of September 22, 2006. Series C No. 153, para. 97; I/A Court HR, *Case of the Ituango Massacres*. Judgment of July 1, 2006 Series C No. 148, para. 340; I/A Court H.R., *Case of the Pueblo Bello Massacre*, Judgment of January 31, 2006. Series C No. 140, para. 143.

VIII. REPARATIONS AND COSTS

252. Based on the foregoing facts in this application and on the constant jurisprudence of the Inter-American Court, establishing "that it is a principle of International Law that any violation of an international obligation which has caused injury generates an obligation of providing adequate reparation of said injury." Without prejudice to the information submitted by the State before the IACHR regarding several forms of assistance that it had offered or provided in favor of the victims' next of kin,²²⁴ the Commission submits its claims regarding reparations and costs that the Mexican State must provide as a consequence of its responsibility for the human rights violations committed with prejudice of the victims and their next of kin.

253. Bearing in mind the Court's Rules of Procedure, which grants the individual autonomous representation, and any other action or reparatory measure offered or executed at the internal level by the Mexican State in benefice of the victims, the Commission will limit itself in what follows to describe general criteria related to reparations and costs which it considers the Court should apply in the instant case. The Commission understands that it is up to the victims and their representatives to seek processing of their demands, pursuant to article 63 of the American Convention and article 23 and others of the Court's Rules of Procedure.

A. Obligation to repair

254. An essential function of justice is to remedy the harm caused to the victim. This function must be expressed through a rectification or restitution and not only through compensation, which does not re-establish the moral balance nor returns what was taken away.

255. Article 63.1 of the American Convention provides that:

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

256. Article 7.g of the Convention of Belém do Pará, in turn, provides that:

[t]he States Parties condemn all forms of violence against women and agree to pursue, by all appropriate means and without delay, policies to prevent, punish and eradicate such violence and undertake to:

[...]

g. establish the necessary legal and administrative mechanisms to ensure that women subjected to violence have effective access to restitution, reparations or other just and effective remedies

²²⁴ Documents submitted by the State during the processing of these cases before the Commission, with the purpose of justifying the assistance given to the next of kin of the victims, Appendix 5.

257. The United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power also provides ample guarantees for those who suffer economic loss, physical or mental injury, and “a substantial impairment of their fundamental rights” through acts or omissions, including the abuse of power. The victims or their next of kin are entitled to seek redress and to be informed that this is their right.²²⁵

258. As the Court has constantly indicated in its jurisprudence, Article 63(1) of the American Convention embodies an accepted tenet that is a fundamental principle of the contemporary International Law on the responsibility of States. The occurrence of a wrongful act that is attributable to a State gives rise to the State’s international liability, and its resulting duty to make reparation for and remove the consequences of the violation.”²²⁶

259. Reparations are crucial to guarantee that justice be served in an individual case, and constitute a mechanism that raises the decision of the Court beyond the scope of moral condemnation. Reparations consist of the measures that seek to make the effect of violations committed disappear. The reparation of injury caused by an infraction of an international obligation requires, whenever possible, full restitution (*restitutio in integrum*), which consists restoring the situation that existed prior to the violation.

260. If full restitution is not possible, as in the instant case, it is up to the Inter-American Court to order that a series of measures be adopted so that, in addition to guaranteeing respect for the rights violated, the consequences of the breaches in the case be remedied and compensation be paid for the damage caused.²²⁷

261. The State cannot modify or fail to comply with the obligation to provide reparations, a matter regulated in all its aspects by international law (scope, nature, form, and determination of the beneficiaries) by invoking its domestic law²²⁸; “where there is a violation without sanction or injury without reparation, law enters in crisis, not only as an

²²⁵ U.N. A/RES/40/34 of November 29, 1985, paras. 1, 4 and 5.

²²⁶ I/A Court H.R., *Case of La Cantuta*. Merits, Reparations and Costs. Judgment of November 29, 2006. Series C No. 162, para. 200; I/A Court H.R., *Case of the Miguel Castro-Castro Prison*, Judgment of November 25, 2006. Series C No. 160, para. 414; I/A Court HR, *Case of Montero-Aranguren et al. (Detention Center of Catia)*, Judgment of July 5, 2006. Series C No. 150 para. 116.

²²⁷ I/A Court H.R., *Case of La Cantuta*. Merits, Reparations and Costs. Judgment of November 29, 2006. Series C No. 162, para. 201; I/A Court H.R., *Case of the Miguel Castro-Castro Prison*, Judgment of November 25, 2006. Series C No. 160, para. 415; I/A Court H.R., *Case of the Dismissed Congressional Employees (Aguado - Alfaro et al.)*. Preliminary Objections, Merits, Reparations and Costs. Judgment of November 24, 2006. Series C No. 158 para. 143.

²²⁸ I/A Court H.R., *Case of Cantoral-Huamani and García- Santa Cruz*, Judgment of July 10, 2007, Series C No. 167, para. 190; I/A Court H.R., *Case of Zambrano-Vélez et al.*, Judgment of July 4, 2007, Series C No. 166, para. 148; I/A Court H.R., *Case of La Cantuta*. Merits, Reparations and Costs. Judgment of November 29, 2006. Series C No. 162, para. 200; I/A Court H.R., *Case of the Miguel Castro-Castro Prison*, Judgment of November 25, 2006. Series C No. 160, para. 415.

instrument to resolve a litigation, but as a method to solve them all, i.e., to ensure peace with justice.”²²⁹

262. Reparations in the instant case should serve to vindicate the rights of the three victims, as well as those of their loved ones. They should also serve to require the State to solve these cases and to take concrete measures to prevent, punish, and eradicate gender-based violence. Prevailing impunity in these cases and in many others in Ciudad Juárez sends a message to society that crimes of these nature are not a priority. It is indispensable that the reparations established in the instant case send a message of prevention and protection. In this respect, the Special Rapporteurs on the Rights of Women of the Inter-American Commission on Human rights and the African Commission on Human and Peoples’ rights, in a joint declaration, expressed the following:

[w]e reiterate that international standards of human rights protect women from violence and discrimination by private non-state actors. States have a duty to take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise. States are held to a due diligence standard to prevent, prosecute and punish those who commit violence against women and to take measures to permanently eradicate violence against women in their societies.

[...]

We highlight the fact that women who have been subjected to violence and discrimination generally lack access to effective judicial protection and remedies. Strategies must be implemented that involve law reform and, in particular, reform of the criminal justice system. Training is required for policy makers, police, judges, and prosecutors. There must also be provision of legal, medical and psychological counselling and adequate social services for the victims. States should use the education system and awareness-raising campaigns aimed at the general public to assist them in implementing international standards at the national level.²³⁰

B. Reparations measures

263. Some writers consider that in situations such as the one at hand, to remedy the situation of the victim and/or his or her next of kin, the State must comply with the following obligations: “the obligation to investigate and publish the facts that can be reliably established (truth); the obligation to prosecute and punish those responsible (justice); the obligation to fully compensate for pecuniary and non-pecuniary damage caused (reparations), and the obligation to remove from security organs all those who it is known have committed, ordered, or tolerated these abuses (creation of security forces worthy of a democratic state). these obligations are not alternatives to each other, nor

²²⁹ SERGIO GARCÍA RAMÍREZ, LAS REPARACIONES EN EL SISTEMA INTERAMERICANO DE PROTECCIÓN DE LOS DERECHOS HUMANOS, paper presented at the Seminar “El sistema interamericano de protección de los derechos humanos en el umbral del siglo XXI” [The inter-American system for the protection of human rights at the threshold of the 21st century], San José, Costa Rica, November 1999.

²³⁰ Joint Declaration of the Special Rapporteurs on Women’s Rights, available at: <http://www.IACHR.org/women/declaracion.mujer.htm>.

optional; the State responsible must comply with each and every one of them in the measure of its possibilities and in good faith.”²³¹

264. The United Nations Special Rapporteur on the Right to Restitution, Compensation and Rehabilitation of Gross Violations of Human Rights and Fundamental Freedoms has classified the components of said right in four general categories: restitution, compensation, rehabilitation, and measures of satisfaction and guarantees of non-repetition.²³² These measures, in the opinion of the United Nations Special Rapporteur on the Question of the Impunity of Perpetrators of Human Rights Violations, are the following: the non-recurrence of existing violations, the establishing of the facts, that the truth be made public in full and disseminated as widely as possible, an official declaration or judicial decision aimed at restoring the victim’s dignity, reputation and rights and that of those persons closely related to the victim, an apology including formal public recognition by the State of its responsibility, the application of judicial or administrative sanctions to those responsible for the violations, the prevention of new violations, etc.

265. For its part, the Court has noted that reparations are measures aimed at the removal of the effects of violations.²³³ These measures include the different forms in which a State may assume the international responsibility in which it has incurred; according to international law they consist of measures of restitution, compensation, rehabilitation, satisfaction, and non-repetition.²³⁴

[I]n accordance with international law, States have the duty to adopt special measures, where necessary, to permit expeditious and fully effective reparations. Reparation shall render justice by removing or redressing the consequences of the wrongful acts and by preventing and deterring violations. Reparations shall be proportionate to the gravity of the violations and the resulting damage and shall include restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.²³⁵

²³¹ JUAN E. MÉNDEZ, EL DERECHO A LA VERDAD FRENTE A LAS GRAVES VIOLACIONES A LOS DERECHOS HUMANOS, article published in *La Aplicación de los Tratados sobre Derechos Humanos por los Tribunales Locales*, CELS, 1997, p. 517.

²³² Revised set of basic principles and guidelines on the right to reparation for victims of gross violations of human rights and humanitarian law prepared by Mr. Theo van Boven pursuant to Sub-Commission decision 1995/117. E/CN.4/ sub.2/1996/17.

²³³ I/A Court H.R., *Case of La Cantuta*. Merits, Reparations and Costs. Judgment of November 29, 2006. Series C No. 162, para. 202; I/A Court H.R., *Case of the Miguel Castro-Castro Prison*, Judgment of November 25, 2006. Series C No. 160, para. 416; I/A Court H.R., *Case of the Dismissed Congressional Employees (Aguado - Alfaro et al.)*. Preliminary Objections, Merits, Reparations and Costs. Judgment of November 24, 2006. Series C No. 158, para. 144.

²³⁴ See: United Nations, *Final report submitted by Theo Van Boven, Special Rapporteur for Restitution, Compensation and Rehabilitation for Victims of Gross Violations of Human Rights and Humanitarian Law*, E/CN.4/Sub.2/1990/10, July 26, 1990. See also, I/A Court H.R., *Blake Case. Reparations* (Art. 63(1) American Convention on Human Rights), Judgment of January 22, 1999, Series C No. 48, para. 31; *Suárez Rosero Case, Reparations* (Art. 63(1) American Convention on Human Rights), Judgment of January 20, 1999, Series C No. 44, para. 41;

²³⁵ United Nations, Commission on Human Rights, Sub-commission on Prevention of Discrimination and Protection of Minorities, E/CN.4/ sub.2/1996/17, *The administration of justice and the human rights of*

267. By virtue of the aforementioned, the Inter-American Commission requests that the Court hand down the order for measures aimed at comprehensive reparations, which, in turn, will constitute a message against the impunity affecting the vast majority of human rights violations in the member States of the Organization of American States. This requires that, when necessary, judicial and administrative mechanisms be established that will allow the victims to obtain reparations by means of ex-officio procedures that are expedited, fair, inexpensive, and accessible.

268. In accordance with the evidence provided in this application, and in the light of the criteria established by the Court in its jurisprudence, the Inter-American Commission shall present its conclusions and claims regarding reparations measures suitable to the Campo Algodonero Cases.

1. Measures for cessation, rehabilitation, satisfaction, and guarantees of non-repetition

269. Satisfaction has been understood as any and all measures that the perpetrator of a violation must adopt in accordance with international instruments or customary law, with the aim of recognizing the commission of an unlawful act.²³⁶ There is satisfaction when three acts are carried out, generally in cumulative fashion: an apology, or any other gesture demonstrating the acknowledgement of responsibility for the act in question; the prosecution and punishment of the individuals responsible, and the taking of steps to avoid a recurrence of the injury.²³⁷

270. On November 29, 1985, the General Assembly of the United Nations passed by consensus the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power,²³⁸ according to which victims "are entitled to access to the mechanisms of

detainees. Revised set of basic principles and guidelines on the right to reparation for victims of gross violations of human rights and humanitarian law prepared by Mr. Theo van Boven pursuant to Sub-Commission decision 1995/117, May 24, 1996, para. 7.

²³⁶ Brownlie, *State Responsibility*, Part 1. Clarendon Press, Oxford, 1983, p. 208.

²³⁷ *Idem*.

²³⁸ A/RES/40/34, *Access to justice and fair treatment* 4. Victims should be treated with compassion and respect for their dignity. They are entitled to access to the mechanisms of justice and to prompt redress, as provided for by national legislation, for the harm that they have suffered. 5. Judicial and administrative mechanisms should be established and strengthened where necessary to enable victims to obtain redress through formal or informal procedures that are expeditious, fair, inexpensive and accessible. Victims should be Reportd of their rights in seeking redress through such mechanisms. 6. The responsiveness of judicial and administrative processes to the needs of victims should be facilitated by: (a) Informing victims of their role and the scope, timing and progress of the proceedings and of the disposition of their cases, especially where serious crimes are involved and where they have requested such information; (b) Allowing the views and concerns of victims to be presented and considered at appropriate stages of the proceedings where their personal interests are affected, without prejudice to the accused and consistent with the relevant national criminal justice system; (c) Providing proper assistance to victims throughout the legal process; (d) Taking measures to minimize inconvenience to victims, protect their privacy, when necessary, and ensure their safety, as well as that of their families and witnesses on their behalf, from intimidation and retaliation; (e) Avoiding

justice and to prompt redress, as provided for by national legislation, for the harm that they have suffered," and for this it is necessary to allow that "the views and concerns of victims to be presented and considered at appropriate stages of the proceedings where their personal interests are affected, without prejudice to the accused and consistent with the relevant national criminal justice system."

271. In Europe, on the other hand, in 1983 the European Convention on the Compensation of Victims of Violent Crimes was drafted, which essentially deals with the situation of victims who have suffered bodily injury or impairment of health and of dependants of persons who have died as a result of such crimes, but where reference is also made to the obligation to protect the victims and grant them certain rights to participate in criminal proceedings.²³⁹

272. In what follows, the IACHR will state its position regarding the measures for cessation, satisfaction, and guarantees of non-repetition required in the instant case, without prejudice to further expanding its arguments with respect to this matter.

273. A fundamental element arising from the determination of state responsibility for human rights violations is the requirement for the wrongful act to cease, as well as for guarantees be given that similar violations will not occur in the future.²⁴⁰

274. The Court has consistently declared that the identification of the responsible parties follows naturally from conventional obligations, and is required for the elimination of generalized impunity.²⁴¹

275. The Court has established that impunity constitutes a violation of the duty of the State which harms the victim, the victim's next of kin, and society as whole, and fosters the chronic recidivism of the human rights violations in the particular case at hand.

276. In the words of the Court:

[e]l Estado está en el deber jurídico de prevenir, razonablemente, las violaciones de los derechos humanos, de investigar seriamente con los medios a su alcance las violaciones que se hayan cometido dentro del ámbito de su jurisdicción a fin de identificar a los responsables [y] de imponerles las sanciones pertinentes.[t]he State has a legal duty to take reasonable

unnecessary delay in the disposition of cases and the execution of orders or decrees granting awards to victims.

²³⁹ European Convention on the Compensation of Victims of Violent Crimes of November 24, 1983. The Council of Europe has also issued norms and recommendations regarding the rights of crime victims.

²⁴⁰ I/A Court H.R., *Case of Castillo-Páez v. Peru*. Reparations and Costs (art. 63.1 American Convention on Human Rights). Judgment of November 27, 1998. Series C No. 43, para. 52.

²⁴¹ The Court has defined impunity as "the lack, as a whole, of investigation, pursuit, capture, prosecution, and conviction of those responsible for violations of the rights protected by the American Convention." See, in this respect, I/A Court HR, *Case of Blanco-Romero et al.* Judgment of November 28, 2005. Series C No. 138, para. 94; I/A Court HR, *Case of Gómez-Palomino*. Judgment of November 22, 2005. Series C No. 136, para. 76.

steps to prevent human rights violations and to use the means at its disposal to carry out a serious investigation of violations committed within its jurisdiction, to identify those responsible, to impose the appropriate punishment and to ensure the victim adequate compensation.²⁴²

277. In this respect, it is the opinion of the Commission that this measure constitutes not only satisfaction but also cessation because, as long as the State has not complied with its obligation to investigate, prosecute, and duly punish human rights violations in the instant case, it incurs in continuous violation of the rights provided for by articles 8.1 and 25, and of the duty established by article 1 of the American Convention.

278. The Court has reiterated on several occasions that each individual and society as a whole have the right to be informed of the truth regarding human rights violations.²⁴³ Likewise, the United Nations Commission on Human Rights has recognized that, for the victims of human rights violations, public knowledge of their suffering and of the truth regarding the perpetrators and their accomplices, constitute essential steps for rehabilitation and reconciliation; hence, it has urged governments to intensify their efforts to provide victims of human rights violations with a just and equitable process through which said violations are investigated; it has also encouraged the victims to participate in the process.²⁴⁴

279. The Court has also established that:

the State is required to remove all obstacles – both factual and legal – contributing to impunity [...] grant sufficient guarantees of security to witnesses, judicial authorities, prosecutors, other judicial agents, and the next of kin of the victims, and use all possible measures to advance the proceeding.²⁴⁵

280. In accordance with the Court's case law and, given the singular gravity of the human rights violations in the instant case, a full reparation requires that the State investigate the disappearances and subsequent murders of Claudia Ivette González, Laura Berenice Ramos and Esmeralda Herrera Monreal with due diligence, impartiality, and exhaustively, in order to clarify the historic truth of the facts. To this end, it must adopt all necessary judicial and administrative measures to complete the investigation, find, prosecute, and punish the perpetrator or perpetrators and abettor or abettors, and provide

²⁴² I/A Court HR, *Case of Velásquez-Rodríguez*, Merits, Judgment of July 29, 1988, Series C No. 4, para. 174. I/A Court HR, *Case of Castillo Páez*, Judgment of November 3, 1997. Series C No. 34, para. 90.

²⁴³ I/A Court H.R., *Case of Bueno-Alves*, Merits, Reparations and Costs, Judgment of May 11, 2007. Series C No. 164, para. 90; I/A Court H.R., *Case of the Miguel Castro-Castro Prison*, Judgment of November 25, 2006. Series C No. 160, para. 347.

²⁴⁴ E/CN.4/RES/2001/70.

²⁴⁵ I/A Court H.R., *Case of La Cantuta*, Merits, Reparations and Costs. Judgment of November 29, 2006. Series C No. 162, para. 226; I/A Court H.R., *Case of Carpio-Nicolle et al.*, Judgment of November 22, 2004. Series C No. 117, para. 134. Also see: I/A Court H.R., *Case of Almonacid-Arellano et al. v. Chile*, Preliminary Objections, Merits, Reparations and Costs. Judgment of September 26, 2006. Series C No. 154, para. 156.

information on the results. In addition, the State is under the obligation to investigate and sanction all those who are responsible for the obstruction of justice, cover-up, and impunity that have prevailed in these cases.

281. The victims' next of kin should have full access and the capacity to participate in all the stages and instances of said investigations, in accordance with domestic law and the norms of the American Convention. Moreover, the State should ensure effective compliance with the decisions adopted by domestic courts, in observance of this obligation. The results of the proceedings should be publicized, so that Mexican society can learn the truth.²⁴⁶

282. Secondly, Mexico should adopt measures for the rehabilitation of the victims' next of kin. These measures should necessarily include mental and medical rehabilitation.

283. Thirdly, the nature and gravity of the facts of the instant case require that the State adopt measures to the end of dignifying the memory of the victims; in this respect, the Commission requests the Court to, *inter alia*, order the following:

- To publicize the results of the internal investigation and punishment proceedings, in order to assist in the realization of the right to truth of the victims' next of kin and of Mexican society as a whole;
- to publish in newspapers, radio, and television, the judgment that the Court will eventually hand down;
- to publicly recognize its international responsibility for the injury caused and for the grave violations occurred, in the significant and dignified manner that the aims of reparation require, in consultation with the mothers of the victims and their representatives; and
- to establish, in consultation with the victims' next of kin, a site or monument in memory of the victims.

284. Moreover, the Commission considers that the State is under the obligation to prevent the recurrence of human rights violations such as those in the instant case; consequently, it requests that the Court issue an order to Mexico to adopt, as a priority, an integral and coordinated policy, backed with sufficient resources, to guarantee that cases of violence against women are adequately prevented, investigated, and punished, and that their victims receive reparations.

285. The Commission considers, furthermore, that as a guarantee of non-repetition, the Court should order the Mexican State to strengthen its institutional capacity to fight the existing pattern of impunity vis-à-vis the cases of violence against women in

²⁴⁶ I/A Court H.R., *Case of Cantoral-Huamaní and García- Santa Cruz*, Judgment of July 10, 2007, Series C No. 167, para. 191; I/A Court H.R., *Case of Escué-Zapata*, Judgment of July 4, 2007, Series C No. 165, para. 166; I/A Court HR, *Case of Huilca-Tecse*, Judgment of March 3, 2005. Series C No. 121, para. 107; I/A Court H.R., *Case of Serrano-Cruz Sisters*. Judgment of March 1, 2005. Series C No. 120, para. 175.

Ciudad Juárez, through effective criminal investigations that receive a consistent judicial follow-up, thus guaranteeing adequate punishment and reparation.

286. Lastly, the Commission considers that the Court should hand down the order to the State to implement public policies and institutional programs towards overcoming stereotypes regarding the role of women in the society of Ciudad Juárez and to promote the eradication of discriminatory sociocultural patterns that prevent the full access of women to justice, including training programs for public officials in all branches of the administration of justice and the police, as well as comprehensive prevention policies.

2. Compensation measures

287. The Court has established the essential criteria that should orient a just indemnity that will adequately and effectively provide economic compensation for the harm suffered as a result of human rights violations. The Court has also established that the indemnity is merely compensatory, and that it should be granted in a measure sufficient to redress both pecuniary and non-pecuniary damage.²⁴⁷

2.1. Pecuniary damages

288. In its jurisprudence on reparations, the Court has consistently established that pecuniary damages include consequential damages and lost income, as well as non-pecuniary damages for injury suffered by the victim as well as his or her nuclear family, in certain cases.²⁴⁸

289. Consequential damages have been understood as the direct and immediate patrimonial consequence of the facts. They include the patrimonial effect immediately and directly caused by the facts of the case, regarding the expenses incurred by the victims' next of kin in their quest for justice.²⁴⁹ As the Court shall be able to establish from the evidence in the instant case, the next of kin of the victims undertook considerable economic effort in order to attain justice at the national level and to overcome the physical, psychological, and moral trauma the actions of the Mexican State caused them.

²⁴⁷ I/A Court H.R., *Case of La Cantuta*. Merits, Reparations and Costs. Judgment of November 29, 2006. Series C No. 162, para. 210; I/A Court H.R., *Case of Hilaire, Constantine and Benjamin et al.* Judgment of June 21, 2002. Series C No. 94, para. 204; I/A Court H.R., *Case of Garrido and Baigorria v. Argentina*. Reparations and Costs (article 63.1 American Convention on Human Rights). Judgment of August 27, 1998. Series C No. 39, párr. 41.

²⁴⁸ I/A Court H.R., *Case of La Cantuta*. Merits, Reparations and Costs, Judgment of November 29, 2006. Series C No. 162, paras. 213 and 214; Corte IDH. I/A Court H.R., *Case of the Miguel Castro-Castro Prison*, Judgment of November 25, 2006. Series C No. 160, para. 423; I/A Court H.R., *Case of Tibi*. Judgment of September 7, 2004. Series C No. 114.

²⁴⁹ I/A Court H.R., *Case of La Cantuta*. Merits, Reparations and Costs, Judgment of November 29, 2006. Series C No. 162, para. 215; I/A Court H.R., *Case of Loayza-Tamayo v. Peru*, Reparations and Costs (article 63.1 of the American Convention on Human Rights), Judgment of November 27, 1998, Series C No. 42 para. 147, and I/A Court H.R., *Case of Aloeboetoe et al.*, Reparations and Costs (article 63.1 American Convention on Human Rights), Judgment of September 10, 1993. Series C No. 15, para. 50.

290. Loss of earnings is understood as the loss of income or benefits that have been lost due to a certain fact, and which it is possible to quantify using certain measurable and objective indicators.²⁵⁰

291. Without prejudice to the claims that the representatives and the victims' next of kin may lodge at the appropriate time in the proceedings, the IACHR requests that the Court use its ample authority in this matter to establish, in fairness, the amount of the indemnity due for consequential damages and loss of earnings.

2.2. Non-pecuniary damages

292. Regarding non-pecuniary damages, the Court has established the following:

[n]on pecuniary damage may cover both the suffering and distress caused to the direct victim and the victim's relatives, the impairment of values of major personal significance, and the non pecuniary changes to the victim's or the victim's family's living conditions. Since accurately quantifying non pecuniary damage is impossible, such damage can only be compensated, for the purpose of providing comprehensive reparation to the victim, through the payment of such sum of money or the provision of such goods or services of monetary worth as may be determined by the Court, in fairness and at its reasonable judicial discretion, and through public action or works aimed at giving recognition to the victim's human dignity and preventing any further human rights violations.²⁵¹

293. The Court, moreover, has indicated in other cases the existence of a presumption regarding non-pecuniary injury suffered by victims of human rights violations, when it has said that non-pecuniary damage inflicted on the victims is evident, because it is inherent in human nature that all those subjected to attacks and humiliation experience moral suffering, "so that this damage does not have to be proved."²⁵²

294. In the instant case, the next of kin of Claudia Ivette, Esmeralda and Laura Berenice have been the victims of an intense psychological suffering, anguish, uncertainty, grief, and the altering of their lives, due to the lack of justice regarding the disappearance and death of their loved ones. More than six years after the homicides of the victims, their next of kin have had to find that domestic investigations were unable to establish the

²⁵⁰ See, e.g., I/A Court H.R., *Case of Carpio-Nicolas et al.*, Judgment of November 22, 2004. Series C No. 117, paras. 105 ff; I/A Court H.R., *Case of De la Cruz-Flores*, Judgment of November 18, 2004. Series C No. 115, paras. 151 and 152.

²⁵¹ I/A Court H.R., *Case of La Cantuta*. Merits, Reparations and Costs, Judgment of November 29, 2006. Series C No. 162, para. 216; I/A Court H.R., *Case of the Miguel Castro-Castro Prison*, Judgment of November 25, 2006. Series C No. 160, para. 430; I/A Court HR, *Case of the Ituango Massacres*. Judgment of July 1, 2006 Series C No. 148, para. 383; I/A Court H.R., *Case of the Pueblo Bello Massacre*, Judgment of January 31, 2006. Series C No. 140, para. 254.

²⁵² See, *inter alia*, I/A Court H.R., *Case of the Dismissed Congressional Employees (Aguado - Alfaro et al.)*. Preliminary Objections, Merits, Reparations and Costs. Judgment of November 24, 2006. Series C No. 158, para. 150; I/A Court HR, *Case of the Ituango Massacres*. Judgment of July 1, 2006 Series C No. 148, para. 384; I/A Court H.R., *Case of the Gómez-Paquiyaúri Brothers*. Judgment of July 8, 2004. Series C No. 110, para. 217; I/A Court H.R., *Case of the 19 Tradesmen*. Judgment of July 5, 2004. Series C No. 109, para. 248.

historic truth of the facts and punish those responsible, which, as the Court has established, may generate intense suffering and anguish for the next of kin, as well as feelings of insecurity, frustration, and impotence.²⁵³

295. In the instant case, the suffering of the victims' next of kin resulting from the lack of a diligent investigation of the facts and subsequent punishment of those responsible, among other violations, justifies the Commission's request to the Court, in attention to the nature of the case, to establish in fairness an amount for the compensation for non-pecuniary damages.

C. The beneficiaries

296. Article 63.1 of the American Convention requires the remedy of the consequences of a violation and "that fair compensation be paid to the injured party." The persons with a right to said compensation generally are those directly injured by the facts of the violation in the case at hand.

297. In keeping with the nature of the instant case, the beneficiaries of such reparations as the Court may order as a consequence of the human rights violations perpetrated by the Mexican State are the aforementioned victims and their next of kin who have suffered pecuniary and/or non-pecuniary injury as a consequence of the alleged human rights violations.²⁵⁴

D. Costs and expenses

298. In accordance with the Court's consistent jurisprudence, costs and expenses should be understood as part of the reparations provided for by article 63.1 of the American Convention, since the endeavor of the injured parties, their successors or their representatives to seek international justice implies expenses and financial commitments that should be compensated for.²⁵⁵ Furthermore, the Court has held that the expenses referred to by article 56.1.h of the Court's Rules of Procedure contemplate the necessary and reasonable expenses incurred to reach the supervisory organs of the American Convention, including the fees of those who provide legal counsel.

299. The Commission requests that the Court, once it has heard the representatives of the victims and their next of kin, order the Mexican State to pay the

²⁵³ See: I/A Court H.R., *Case of the 19 Tradesmen*, Judgment of July 5, 2004, Series C No. 109, para. 250.b); cfr. *Case of Bámaca-Velásquez*, Judgment of November 25, 2000, Series C No. 70, para. 160.

²⁵⁴ In this respect, see the table of possible beneficiaries of reparations attached to the communication of the representatives of Ms. Irma Monreal, of May 29, 2007, IACHR case file, Appendix 5, and tables of possible beneficiaries of reparations attached to the communication of the representatives of Ms. Benita Monárrez and Ms. Josefina González, of May 4, 2007, IACHR case file, Appendix 5.

²⁵⁵ I/A Court H.R., *Case of La Cantuta*, Merits, Reparations and Costs, Judgment of November 29, 2006, Series C No. 162, para. 243; I/A Court H.R., *Case of the Miguel Castro-Castro Prison*, Judgment of November 25, 2006, Series C No. 160, para. 455; I/A Court H.R., *Case of the Dismissed Congressional Employees (Aguado - Alfaro et al.)*, Preliminary Objections, Merits, Reparations and Costs, Judgment of November 24, 2006, Series C No. 158, para. 152.

reasonable and necessary costs and expenses for which evidence has been duly submitted, and which were originated, and continue to originate, from the processing of the instant case both domestically and before the inter-American system for human rights.

IX. CONCLUSION

300. The lack of measures for the protection of the victims, two of whom were minor children, the lack of prevention of these crimes, in spite of full awareness of the existence of a pattern of gender-related violence that had resulted in hundreds of women and girls murdered, the lack of response of the authorities to the disappearance of the victims, the lack of due diligence in the investigation of the homicides of Claudia Ivette González, Esmeralda Herrera Monreal and Laura Berenice Ramos Monárrez, as well as the denial of justice and the lack of an adequate reparation for their next of kin, constitute violations of the rights protected under articles 4 (right to life), 5 (right to humane treatment), 8 (right to a fair trial), 19 (rights of the child), and 25 (right to judicial protection) of the American Convention on Human Rights; they constitute a failure to comply with the general obligation to respect and guarantee rights provided for by article 1.1 of the treaty, failure to comply with the duty to adopt legislative and other measures, provided by article 2 of same, and failure to comply with the obligations established by article 7 of the Convention of Belém do Pará.

X. PETITION

301. Based on the foregoing arguments in fact and in law, the Inter-American Commission requests that the Court find that:

- a) the Mexican State is responsible for the violation of articles 4 (right to life), 8.1 (right to a fair trial), and 25 (right to judicial protection) of the American Convention, in connection with the general obligations to respect and guarantee provided for by article 1.1 of same and the duty to adopt legislative and other domestic measures pursuant to article 2 of the treaty, and of article 7 of the Convention of Belém do Pará, with prejudice to Claudia Ivette González, Esmeralda Herrera Monreal and Laura Berenice Ramos Monárrez;
- b) the Mexican State is responsible for the violation of article 19 (rights of the child) of the American Convention, in connection with the general obligation to respect and guarantee rights established by article 1.1 of same, the obligation to adopt legislative and other domestic measures provided by article 2 of the treaty, and of article 7 of the Convention of Belém do Pará, with prejudice to the girls Esmeralda Herrera Monreal and Laura Berenice Ramos Monárrez; and
- c) the Mexican State is responsible for the violation of articles 5 (right to humane treatment), 8.1 (right to a fair trial), and 25 (right to judicial protection) of the American Convention, in connection with the general obligation to respect and guarantee rights provided for by article 1.1 and the duty to adopt legislative and other domestic measures, established by article 2 of the treaty, with prejudice to the mothers and the nuclear families of the victims.

And consequently, to order the State to:

- a) carry out, with due diligence, a serious, impartial, and exhaustive investigation to clarify the historic truth of the disappearances and subsequent murders of Claudia Ivette González, Laura Berenice Ramos and Esmeralda Herrera Monreal, identify and punish those responsible for said acts;
- b) to carry out, with due diligence, a serious, impartial, and exhaustive investigation to establish the responsibility of public officials who with their irregular and/or negligent conduct contributed to the lack of clarification of the historical truth of the facts, and the identification and punishment of the responsible parties, and to impose upon said officials the appropriate criminal, administrative, and civil sanctions;
- c) to adopt measures of rehabilitation and compensation, both pecuniary and non-pecuniary, in favor of the next of kin of Claudia Ivette González, Laura Berenice Ramos and Esmeralda Herrera Monreal, considering their specific perspective and needs;
- d) to adopt, in compliance with the duties of prevention and guarantee of fundamental rights recognized by the American Convention, all necessary legal, administrative, and other measures, in order to prevent similar facts from occurring in the future, and especially, to:
 - 1) implement a comprehensive and coordinated policy, backed by sufficient resources, to guarantee that cases of violence against women are adequately prevented, investigated, punished, and their victims redressed;
 - 2) to strengthen institutional capacity to fight the pattern of impunity vis-à-vis cases of violence against women in Ciudad Juárez, through effective criminal investigations, with consistent judicial follow-up, thus guaranteeing appropriate punishment and reparation;
 - 3) to continue to adopt public policies and institutional programs geared towards overcoming stereotypes regarding the role of women in the society of Ciudad Juárez, and to promote the eradication of discriminatory sociocultural patterns that prevent full access of women to justice, including training programs for public officials in all branches of the administration of justice and the police, and comprehensive prevention policies; and
- e) to pay the costs and legal expenses incurred by the next of kin of the victims in the processing of the instant case, at the national level as well as before the inter-American system.

XI. EVIDENCE

A. Documentary evidence

302. A list of available documentary evidence to date is as follows:

APPENDIX 1. IACHR, Report No. 28/07 (Merits), Cases 12.496, 12.497 and 12.498, *Claudia Ivette González, Esmeralda Herrera Monreal and Laura Berenice Ramos Monárrez*, Mexico, March 9, 2007;

APPENDIX 2. IACHR, Report No. 16/05 (Admissibility), Petition 281/02, *Claudia Ivette González*, Mexico, February 24, 2005;

APPENDIX 3. IACHR, Report No. 17/05 (Admissibility), Petition 282/02, *Esmeralda Herrera Monreal*, Mexico, February 24, 2005;

APPENDIX 4. IACHR, Report No. 18/05 (Admissibility), Petition 283/02, *Laura Berenice Ramos Monárrez*, Mexico, February 24, 2005;

APPENDIX 5. File of cases Nos. 12.496, 12.497 and 12.498 before the IACHR;

ANNEX 1. IACHR, Report on the *Situation of the Rights of Women in Ciudad Juárez, Mexico: The Right to Be Free from Violence and Discrimination* OEA/Ser.L/V/II.117, March 7, 2003;

ANNEX 2. IACHR, *Access to Justice for Women Victims of Violence in the Americas*, OEA/Ser. L/V/II. doc.68, January 20, 2007;

ANNEX 3. United Nations, *Report of the Commission of International Experts of the United Nations Office on Drugs and Crime on the Situation in Ciudad Juárez, Chihuahua, Mexico*, United Nations Office on Drugs and Crime, November 2003;

ANNEX 4. Comisión Nacional de Derechos Humanos [National Commission on Human Rights], Mexico, Recommendation 44/98;

ANNEX 5. Informe Especial de la Comisión Nacional de Derechos Humanos, México, sobre los Casos de Homicidios y Desapariciones de Mujeres en el Municipio de Juárez, Chihuahua, 2003. Available in Spanish at: <http://www.senado.gob.mx/content/sp/informes/chihuahua/>;

ANNEX 6. Amnistía Internacional, *Muertes Intolerables, Diez Años de Desapariciones de Asesinatos de Mujeres en Ciudad Juárez y Chihuahua*, 11 de agosto de 2003, AI: AMR 41/026/2003. Available at: <http://web.amnesty.org/library/Index/ESLAMR410262003?open&of=ESL-MEX>; English: Amnesty International, *Mexico: Intolerable Killings: 10 years of Abductions and Murders in Ciudad Juárez and Chihuahua*, AMR 41/027/2003, summary in English available at: <http://www.amnesty.org/en/report/info/AMR41/027/2003>

ANNEX 7. Press releases on the instant cases and their domestic investigation

ANNEX 8. Report on Missing Person No. 234/2001: Claudia Ivette González

ANNEX 9. Appearance of Mayela Banda González, sister of the victim, October 12, 2001.

ANNEX 10. Official Note on Missing Person Report, No. 589/01, sent by the Coordinator of the Program of Attention for Victims of Crime to the Chief of the Judicial Police of the State, northern zone, September 25, 2001 (Claudia Ivette González)

- ANNEX 11.** Missing Person Report No. 225/2001: Laura Berenice Ramos Monárrez
- ANNEX 12.** Appearance of Benita Monárrez Salgado, mother of the victim, before the Office of the Public Prosecutor, September 25, 2001;
- ANNEX 13.** Missing Person Report No. 241/2001 regarding Esmeralda Herrera Monreal;
- ANNEX 14.** Testimony of Benita Monárrez Salgado (September 25, 2001);
- ANNEX 15.** Testimony of Daniel Ramos Canales (September 28, 2001);
- ANNEX 16.** Testimony of Ana Catalina Solís Gaytan (October 1, 2001);
- ANNEX 17.** Testimony of Ivonne Ramos Monárrez (October 1, 2001);
- ANNEX 18.** Testimony of Diana América Corral Hernández (October 1, 2001);
- ANNEX 19.** Testimony of Rocio Ixtel Núñez Acevedo (October 5, 2001);
- ANNEX 20.** Testimony of Juana González Flores (October 12, 2001);
- ANNEX 21.** Testimony of Ana Isabel Suárez Valenciana (October 17, 2001);
- ANNEX 22.** Testimony of Aide Navarrete García (October 16, 2001);
- ANNEX 23.** Testimony of Armando Velazco Fernández (October 19, 2001);
- ANNEX 24.** Testimony of Verónica Hernández Estrada (October 19, 2001);
- ANNEX 25.** Testimony of Efrén Pérez Maese (October 24, 2001);
- ANNEX 26.** Testimony of Juan Antonio Martínez Jacobo (October 24, 2001);
- ANNEX 27.** Testimony of Víctor Hugo Hernández Bonilla (October 25, 2001);
- ANNEX 28.** Testimony of Jesús Moisés Cuellar Juárez (October 25, 2001);
- ANNEX 29.** Court appearance of Irma Monreal Jaime, mother of the victim, October 30, 2001;
- ANNEX 30.** Announcement of the disappearance of Claudia Ivette González;
- ANNEX 31.** Announcement of the disappearance of Esmeralda Herrera Monreal
- ANNEX 32.** Announcement of the disappearance of Laura Berenice Ramos;
- ANNEX 33.** Official communication [*Fe Ministerial*] of November 6, 2001, at 10:00 hours, signed by the agent of the Prosecutor's Office Lic. Cesar Octavio Rivas Ávila, AP 27913-01;
- ANNEX 34.** Map indicating the location of the eight victims found on the lot known as "campo algodonero" (cotton field);
- ANNEX 35.** Official record of removal of unidentified body No. 188/01, by the Office of the Attorney General of the State of Chihuahua, dated November 6, 2001;
- ANNEX 36.** Official record of removal of unidentified body No. 189/01, by the Office of the Attorney General of the State of Chihuahua, dated November 6, 2001;

ANNEX 37. Official record of removal of unidentified body No. 190/01, by the Office of the Attorney General of the State of Chihuahua, dated November 6, 2001;

ANNEX 38. Document with no number, dated November 6, 2001, containing a notice, dated November 6, 2001, of a decision to open a case file, registered as Preliminary Inquiry 27913/01-1501;

ANNEX 39. Requests for expert reports, communications 504/01 and 507/01 of November 8, 2001; 513/01 and 514/01 of November 9, 2001; s/n 521/01 and 504/00 of November 10, signed by Lic. Zulema Bolívar García, Agent of the Office of the Public Prosecutor

ANNEX 40. Autopsy report regarding unidentified body No. 188/2001, of November 9, 2001 signed by the forensic scientist Dr. Enrique Silva Pérez;

ANNEX 41. Autopsy report regarding unidentified body No. 189/2001, of November 9, 2001 signed by the forensic scientist Dr. Enrique Silva Pérez;

ANNEX 42. Autopsy report regarding unidentified body No. 189/2001, of November 9, 2001 signed by the forensic scientist Dr. Enrique Silva Pérez;

ANNEX 43. Deposition of Mr. Luis Córdova Tostado, November 10, 2001;

ANNEX 44. Official communication No. 1690 issued on November 13, 2001 by Lic. Oscar Maníes Grijalva, Chief of the Technical Office for Expert Services and Forensic Medicine;

ANNEX 45. Official communication No. 1342/2001 issued on November 14, 2001, related to a hematological study;

ANNEX 46. Official communication No. 1340/01 issued on November 14, 2001 by Forensic Expert Gabriela Espino Rodríguez;

ANNEX 47. Official communication No. 1341/01 of November 14, 2001, issued by the Forensic Expert Gabriela Espino Rodríguez;

ANNEX 48. Official communication No. 1335/01, of November 14, 2001, statement that tests to establish blood type of unidentified deceased female No. 188/01 could not be performed;

ANNEX 49. Official communication No. 1339/2001 of November 14, 2001, statement that tests to establish blood type of unidentified deceased females Nos. 189 and 190 could not be performed;

ANNEX 50. Deposition of Mayela Banda González identifying the body of Claudia Ivette González, dated November 15, 2001;

ANNEX 51. Authorization to release the body of Claudia Ivette González, dated November 15, 2001;

ANNEX 52. Warrant for the arrest of Víctor García Uribe and Gustavo González Meza, issued by the Judge of the Third Criminal Court of the Bravos District, Chihuahua, November 15, 2001;

ANNEX 53. Communication of Lic. Zulema Bolívar García, Office of the Special Prosecutor for the Investigation of Homicides of Women, Ciudad Juárez, Mexico, November 15, 2001 (Claudia Ivette González);

ANNEX 54. Deposition of Adrián Herrera Monreal, identifying the body of his sister Esmeralda Herrera Monreal, dated November 16, 2001;

ANNEX 55. Deposition of Antonio Herrera Rodríguez, identifying the body of his daughter Esmeralda Herrera Monreal, dated November 16, 2001;

ANNEX 56. Authorization to release the body of Esmeralda Herrera Monreal, dated November 16, 2001;

ANNEX 57. Communication of Lic. Zulema Bolívar García, Office of the Special Prosecutor for the Investigation of Homicides of Women, Ciudad Juárez, Mexico, November 16, 2001 (Esmeralda Herrera Monreal);

ANNEX 58. Report of forensic facial approximation for identification of body 188/01 (Esmeralda Herrera) November 21, 2001;

ANNEX 59. Report of forensic facial approximation for identification of body 189/01 (Claudia Ivette González), of November 21, 2001;

ANNEX 60. Report of forensic facial approximation for identification of body 190/01 (Laura Berenice Ramos), of January 8, 2001;

ANNEX 61. Appearance of Benita Monárrez Salgado, mother of the victim, December 10, 2000 [sic] 2001: inspection of the room of the victim Laura Berenice Ramos;

ANNEX 62. Field Criminology Report of February 2, 2002, conveyed by Communication 0184 of February 6, 2002, signed by Lic. Héctor Enrique Infante Chávez;

ANNEX 63. Official record of collection of evidence carried out by the next of kin of the victims on February 24, 2002, signed by Lic. Mayte Espinoza, agent of the Office of the Public Prosecutor

ANNEX 64. Official record of collection of evidence carried out by the next of kin of the victims, the Office of the Prosecutor, and the Technical Office for Expert Services, on February 25, 2002, signed by Lic. César Octavio Rivas Ávila, agent of the Office of the Public Prosecutor;

ANNEX 65. Official communication 0337/2002 of March 18, 2002, report on identification of blood peroxidase;

ANNEX 66. Official communication 0338/2002 of March 18, 2002, report on identification of blood peroxidase;

ANNEX 67. Appearance of Benita Monárrez Salgado: identification of the body of Laura Berenice Ramos, dated March 22, 2002;

ANNEX 68 Deposition of Pablo Monárrez Salgado identifying the body of his niece Laura Berenice Ramos, dated March 22, 2002;

ANNEX 69. Authorization for the release of the body of Laura Berenice Ramos, dated March 22, 2002;

ANNEX 70. Communication of Lic. Zulema Bolívar García, Office of the Special Prosecutor for the Investigation of Homicides of Women, Ciudad Juárez, Mexico, March 22, 2002 (Laura Berenice Ramos);

ANNEX 71. Official communication No. 34196 of September 20, 2002, results of the genetic comparison tests, *inter alia*, to establish blood relationships, regarding bodies 188/01, 189/01 and 190/01;

ANNEX 72. Addition to the report on genetic comparison tests, *inter alia*, to establish blood relationships, regarding bodies 188/01, 189/01 and 190/01, dated October 8, 2002;

ANNEX 73. Hearing in which the prosecutor requests that the Seventh Criminal Court carry out several procedures, November 18, 2002;

ANNEX 74. Ruling of the Seventh Criminal Court of July 9, 2003, ordering that the cause of death be established for the persons whose remains were found in the so-called "campo algodonero" [cotton field] one year and a half before (November 6 and 7, 2001);

ANNEX 75. Report of forensic scientist of October 25, 2003, in the case of skeletal remains 188/01;

ANNEX 76. Report of forensic scientist of October 25, 2003, in the case of skeletal remains 189/01;

ANNEX 77. Official communications 3289/2003 and 2390/2003 of October 25, 2003, File 48/02, signed by the forensic medical examiner Dr. Enrique Silva Pérez;

ANNEX 78. Official communication No. V2/004191 of February 27, 2004, issued by the Comisión Nacional de Derechos Humanos [National Human Rights Commission], signed by Dr. Raúl Plascencia Villanueva;

ANNEX 79. Report of the Office of the Special Prosecutor for Attention to Crimes Related to Homicides of Women in the Municipality of Juárez, Chihuahua (June 2004);

ANNEX 80. Report of the Office of the Special Prosecutor for Attention to Crimes Related to Homicides of Women in the Municipality of Juárez, Chihuahua (October 2004);

ANNEX 81 Report of the Office of the Special Prosecutor for Attention to Crimes Related to Homicides of Women in the Municipality of Juárez, Chihuahua (January 2005);

ANNEX 82. Transcript of the April 26, 2005 appearance of Lic. Patricia González Rodríguez, Attorney General of the State of Chihuahua, before the Special Committee of the Chamber of Deputies for Oversight and Follow-up of the Investigations of the Femicides in the Mexican Republic and Related Pursuit of Justice, prepared by the Office of the General Director of Parliamentary Record;

ANNEX 83. Official communication 794 issued by the Clerk of the Fourth Criminal Chamber to the Judge of the Third Criminal Court, Ciudad Juárez, Decision 474/04;

ANNEX 84. Deposition of Mrs. Benita Monárrez Salgado on July 23, 2006 before the agent of the Office of the Prosecutor, attached to the Office of the Comptroller of Internal Affairs, Northern Zone;

ANNEX 85. Press release of the Embassy of the United States in Mexico of August 17, 2006: *Importante avance en la investigación de los asesinatos de mujeres en Ciudad Juárez* [Major Break in the Investigation into the Unsolved Murders of Women in Ciudad Juarez];

ANNEX 86. Press release No. 136/05 of the Comisión para Prevenir y Erradicar la Violencia contra las Mujeres en Ciudad Juárez (CPEVMCJ) [Commission for the Prevention and Eradication of Violence against Women in Ciudad Juárez] of July 14, 2005: *La Comisión para Juárez pide una investigación expedita para dar con los responsables de los crímenes de mujeres del Campo Algodonero* [The Commission for Juárez Requests an Expedited Investigation to Find those Responsible of the Murders of Campo Algodonero];

ANNEX 87. Press Release of the Argentine Team of Forensic Anthropology of February 23, 2006: *Reporte de avance sobre trabajos de identificación de restos femeninos de Ciudad Juárez y de la Ciudad de Chihuahua* [Progress Report on the Identification of the Female Remains of Ciudad Juárez and the City of Chihuahua] ;

ANNEX 88. Recording of the public hearing with the State Attorney General, the EAAF and the families of "Campo Algodonero," on August 4, 2006;

ANNEX 89. Judicial procedure practiced at the "Cuatro Vientos" junkyard, consisting of the preventive seizure of a burgundy-colored Renault Alliance vehicle, property of Gustavo Gil Molina; the vehicle was confiscated by the Office of the Prosecutor and destined to remain in the custody of the Forensic Medical Service.

ANNEX 90. Official record of on-site inspection and seizure of objects made by Lic. Rodrigo Caballero, agent of the Office of the Public Prosecutor, on August 24, 2006, on a property owned by Juventino Murillo Solís (formerly property of Francisco Granados de la Paz, currently accused). This record describes a number of objects found in a latrine on said property, which were confiscated by the Office of the Public Prosecutor.

ANNEX 91. Deposition of Claudia Ivonne Ramos Monárrez (sister of Berenice Ramos Monárrez) taken at the Office of the Public Prosecutor on July 9, 2007.

ANNEX 92. Complaint filed on June 5, 2007, against the officials and former officials who participated in the first "Campo Algodonero" investigation.

ANNEX 93. Record of the July 19, 2007 Work Meeting, within the 128th Regular Session of the Inter-American Commission, Annex 93.

ANNEX 94 Complaint regarding the crime of abuse of authority, lodged by Jorge Luis Puentes García on August 6, 2007;

ANNEX 95. Complaint filed by María Peinado Portillo, wife of Édgar Álvarez Cruz, before the *Comisión Estatal de Derechos Humanos* [State Human Rights Commission] on August 8, 2007

ANNEX 96. Proceedings carried out under administrative and criminal justice against officials accused of committing irregularities in the investigation of homicides of women and girls in the State of Chihuahua. None of these documents, provided by the State during the processing of the case before the IACHR, is related to the investigations of irregularities in the instant cases;

ANNEX 97. *Curriculum vitae* of Carlos Castresana Fernández, expert offered by the Commission;

ANNEX 98. *Curriculum vitae* of Servando Pineda Jaimes, expert offered by the Commission;

ANNEX 99. *Curriculum vitae* of Clyde Snow, expert offered by the Commission;

ANNEX 100. Designation of representatives for the proceedings before the Inter-American Court, signed by Ms. Irma Monreal;

ANNEX 101. Designation of representatives for the proceedings before the Inter-American Court, signed by Ms. Josefina González; and

ANNEX 102 Designation of representatives for the proceedings before the Inter-American Court, signed by Ms. Benita Monárrez.

303. The Commission considers it essential, and expressly so requests, in order for the Court to have all the facts at its disposal for its decision, that the Court request from the State the submission of certified copies of all the documents related to the judicial, administrative, or other inquiries carried out within its domestic jurisdiction and related to the facts, as well as authenticated copies of the applicable legislation and regulations.

B. Evidence from witnesses and experts

1. Witnesses

304. The Commission requests that the Court hear the testimony of the following witnesses:

- Josefina González Rodríguez, mother of Claudia Ivette González, who will testify regarding the different steps taken by the next of kin of the victim during the period immediately after she went missing; the management of the domestic investigations after the discovery of the remains of her daughter; the obstacles faced by the victim's next of kin in their pursuit of justice in the case; the consequences of the human rights violations suffered by her daughter for her personal life and for her family; and other matters related to the objective and purpose of this application.

- Irma Monreal Jaime, mother of Esmeralda Herrera Monreal, who will testify regarding the different steps taken by the victim's next of kin during the period immediately after she went missing; the response and attitude of the authorities towards said steps; the management of the domestic investigations after the discovery of the remains of her daughter; the obstacles faced by the victim's next of kin in their pursuit of justice in the case; the consequences of the human rights violations suffered by her daughter for her personal life and for her family; and other matters related to the objective and purpose of this application.
- Benita Monárrez Salgado, mother of Laura Berenice Ramos Monárrez, who will testify regarding different steps taken by the victim's next of kin during the period immediately after she went missing; the response and attitude of the authorities towards said steps; the management of the domestic investigations after the discovery of her daughter's remains; the obstacles faced by the victim's next of kin in their pursuit of justice in the case; the consequences for her personal life and for her family of the human rights violations suffered by her daughter; and other matters related to the objective and purpose of this application.
- Luis Alberto Bosio, forensic pathologist, who will testify regarding the forensic medical examinations and the forensic osseous anthropological medical reports based on examinations of several of the remains found in the so-called "Campo Algodonero" between November 6 and 7, 2001; the conclusions he reached, and the compatibility between the prior tests practiced on the same remains and applicable international standards, and other matters related to the objective and purpose of this application.
- Mercedes C. Doretti, member of the Argentina Team of Forensic Anthropology (EAAF), who will testify regarding the investigations carried out by the EAAF with respect to the homicides of women and girls committed in the State of Chihuahua, Mexico; the process of identification of the victims of said crimes; the behavior and level of cooperation of the authorities regarding those investigations, and the conclusions reached by EAAF, and other matters related to the objective and purpose of this application.

2. Experts

305. The Commission requests that the Court hear the opinion of the following experts:

- Carlos Castresana Fernández, member of the team of the United Nations Office on Drugs and Crime (UNODC), who in 2003 monitored the domestic investigations regarding the homicides of women and girls in Ciudad Juárez, including the Cases of Campo Algodonero, and who will offer an expert opinion regarding due diligence in the processes of investigation of crimes of this nature, and the management of the investigations in the Cases of

Campo Algodonero in the light of applicable international standards, and other matters related to the objective and purpose of this application.

- An expert on gender-related violence, who's name will be communicated in timely fashion to the Court, who will submit her expert opinion regarding the general problem of violence against women, its relationship with historically suffered discrimination, the need for institutional strengthening and the adoption of comprehensive strategies to prevent it and eradicate it; the access to justice for victims of gender-related violence; and the behavior of Mexican authorities with respect to homicides of women and girls in the State of Chihuahua as background to the prevailing impunity regarding them, and other matters related to the objective and purpose of this application.
- Servando Pineda Jaimes, Director of the College of Social Sciences of the Autonomous University of Ciudad Juárez, who will submit his expert opinion on the causes and consequences of the phenomenon of disappearances and homicides of women and girls in the State of Chihuahua, and the sociocultural patterns that condition judicial and police procedures regarding this type of cases, and other matters related to the objective and purpose of this application.
- Clyde Snow, forensic anthropologist, who will submit his expert opinion on international standards applicable to the identification of the remains of victims of violent crimes; the correct preservation of essential evidence in this type of cases; the process of genetic identification of human remains, and other matters related to the objective and purpose of this application.

XII. PARTICULARS OF THE ORIGINAL PETITIONERS, OF THE VICTIMS, AND THEIR NEXT OF KIN

306. Pursuant to article 33 of the Court's Rules of Procedure, the Inter-American Commission submits the following information: the original petition for Case No. 12.496, presented by Josefina González Rodríguez, mother of the alleged victim, and by Rosario Acosta and Jorge Alberto Gaytán, in representation of the non-governmental organization *Red Ciudadana de No Violencia y por la Dignidad Humana* [Non-Violent Citizen Network for Human Dignity], and the original petition for Case No. 12.498, lodged by Benita Monárrez Salgado, mother of the alleged victim, and the non-governmental organization *Red Ciudadana de No Violencia y por la Dignidad Humana*. Subsequently, the non-governmental organizations *Asociación Nacional de Abogados Democráticos AC (ANAD)* [National Association of Democratic Lawyers] and *Comité de América Latina y el Caribe para la Defensa de los Derechos de la Mujer (CLADEM)* [Latin American and Caribbean Committee for the Defense of Women's Rights], joined Case 12.497 as co-petitioners.

307. Ms. Irma Monreal Jaime (mother of Esmeralda Herrera Monreal) granted written authorization to the *Asociación Nacional de Abogados Democráticos AC (ANAD)* and the *Comité de América Latina y el Caribe para la Defensa de los Derechos de la Mujer (CLADEM)*, to represent her in the current judicial stage before the system, as can be read

in the attached document.²⁵⁶ Mses. Josefina González Rodríguez (mother of Claudia Ivette González) and Benita Monárrez Salgado (mother of Laura Berenice Ramos Monárrez) have granted written authorizations to Messrs. and Mses. Alfredo Limas Hernández, Ivonne Irabel Mendoza Salazar, Sonia Josefina Torres Hernández and Jorge Alberto Gaytán, members of the organizations *Red Ciudadana de No Violencia y por la Dignidad Humana* and the *Centro para el Desarrollo Integral de la Mujer AC* [Center for the Integral Development of Women] to represent them in the current stage of processing before the system, as can be read from documents attached.²⁵⁷

308. The mothers of the victims have communicated to the Commission in an October 25, 2007 note, that at this time it is not possible to name a common representative.²⁵⁸ However, they set a unified domicile at the offices of the organizations *Red Ciudadana de No Violencia y por la Dignidad Humana* and *Centro para el Desarrollo Integral de la Mujer AC*, located on Calle Miguel Cabrera #359, Fraccionamiento Álamos de San Lorenzo, Ciudad Juárez, Chihuahua, México, Telefax (52) 656-6175235.

²⁵⁶ See Annex 100.

²⁵⁷ See Anexes 101 and 102.

²⁵⁸ See the October 25, 2007 communication signed by Benita Monárrez, Josefina González and Irma Monreal, case file processed before the IACHR, Appendix 5.