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## **REPORT No. 121/18**

### **CASE 10.573**

MERITS REPORT (PUBLICATION)

JOSE ISABEL SALAS GALINDO AND OTHERS  
UNITED STATES

Approved by the Commission at its Session No. 2137 held on October 5, 2018  
169<sup>th</sup> Period Ordinary of Sessions.

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Organization of  
American States

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**OCTOBER 5, 2018**

## **I. SUMMARY**

1. On May 10, 1990, the Inter-American Commission on Human Rights (hereinafter “the Inter-American Commission,” “the Commission,” or “the IACtHR”) received a petition filed by the attorney José Luis Morín and attorney Gilma Camargo representing the Center for Constitutional Rights (hereinafter “the petitioners” or “the petitioning party”)<sup>2</sup> alleging the international responsibility of the United States of America (hereinafter “American State,” “the State,” “the United States,” or “USA”) to the detriment of the persons identified as alleged victims of the military invasion initiated by the USA on December 20, 1989 in Panama. The petition filed is the combined result of 272 individual petitions presented by presumed victims as part of the one collective case.

2. The Commission approved Admissibility Report No. 31/93 on October 14, 1993.<sup>3</sup> On November 12, 1993, the Commission notified that report to the parties and indicated it was at their disposal to reach a friendly settlement if they wished to engage in that process.<sup>4</sup> The parties were allocated the time-limits provided in the IACtHR’s Rules of Procedure to submit their additional observations on the merits of the case.<sup>5</sup> On February 3 and September 6, 1995, and on December 9, 2016, the IACtHR held hearings on the merits of the case. Given the complexity of this case, since the last hearing the Commission has dedicated special attention to review the merits and bring the matter to a conclusion. All the information received during the processing of the case was duly forwarded to the parties.<sup>6</sup>

3. The petitioners alleged the violation of the basic principles set forth in the Charter of the Organization of American States and the Charter of the United Nations, as well as fundamental human rights set forth in the American Declaration of the Rights and Duties of Man and the Universal Declaration of Human Rights. In particular, they argued that, during both the invasion and the military occupation, the State violated basic principles of customary international humanitarian law. The petitioning party affirmed that the State was internationally responsible for its actions and omissions during the invasion because of the violations of the rights to life, liberty, and integrity of persons, as well as the right to freedom of investigation, opinion, expression and dissemination, the right to a family and to protection thereof, the right to protection of mothers and children, the right to residence and movement, the inviolability of the home, the preservation of health and well-being, the right to education, the right to the benefits of culture, the right to work, the right to vote and to participate in government, the right of assembly, the right of association, the right to property and the right of asylum.

4. The State alleged that the military operation was conducted following proper standards for commencing combat and employing every effort to minimize the number of civilian casualties. It also continued to submit allegations regarding the admissibility of the petition, especially with respect to the exhaustion of

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<sup>1</sup> Commissioner Esmeralda Arosemena de Troitiño, of Panamanian nationality, considered that - based on Article 17.3 of the IACtHR Rules of Procedure - she should excuse herself from participating in the deliberation and decision on the matter. The Inter-American Commission accepted her decision to excuse herself; consequently she did not participate in the deliberation and vote on this case.

<sup>2</sup> On October 5, 1998 the IACtHR received a communication from Gilma Camargo in which she reported that the Center for Constitutional Rights had cease to serve as representative in the case, and that she would assume representation.

<sup>3</sup> IACtHR. Report No. 31/93. Case 10.573. Salas and others. October 14, 1993.

<sup>4</sup> In its last communication, submitted on March 23, 1996, the State noted that the present case was not the object of a friendly settlement process.

<sup>5</sup> The petitioning party submitted observations on the merits of the case on various occasions, in particular on August 5 and October 6, 1994, on January 27, June 22, and November 6, 1995. As for the State, it submitted observations on the merits of the case on February 1 and October 27, 1994 and on March 29, 1996.

<sup>6</sup> On September 15 and 19, 1995 and on April 1 and May 8, 1996, the petitioning party requested precautionary measures for the benefit of various persons who were allegedly at risk.

remedies under domestic law, the IACtHR's lack of competence with respect to the subject matter, the absence of details and specificity of the petitioners' claims, and the inadmissibility with respect to unidentified victims.

5. On the basis of its determinations of fact and law, the Inter-American Commission concluded that the State is responsible for violating Article I (right to life, liberty and personal security), VII (right to protection for children), XXIII (right to property) and XVIII (right to a fair trial) of the American Declaration of Rights and Duties of Man (hereinafter "the American Declaration" or "the Declaration"). The Commission issued the corresponding recommendations.

## II. POSITION OF THE PARTIES

### A. Petitioners

6. The petitioning party indicates that the victims of the present case are Panamanian civilians, not combatants, who sustained personal injuries and material losses, and/or were casualties of the military invasion carried out by the United States in Panama starting on December 20, 1989. The petitioning party indicates that the victims are acting on their own behalf but also on behalf of all Panamanians who were "similarly harmed" by the reckless and indiscriminate actions of the State's armed forces when it used overwhelming force to remove a low level of resistance. In the admissibility stage they identified 315 people by name.

7. The petitioners argue that, with the participation of troops of the United States Army, Navy, and Marines, there was an air, land, and sea attack against the Republic of Panama which targeted 27 military objectives simultaneously with the overwhelming use of military weaponry, including the most sophisticated arsenal of weapons of the United States and ground forces amounting to more than 24,000 troops.

8. In particular, the petitioners explain that the intended goal of this intervention was to overthrow General Noriega and transfer him to the United States so that he could be tried for illegal drug trafficking, among other crimes. They contend that, as part of the invasion's strategy, the Government of Panama headed by Guillermo Endara was sworn in on the night of the invasion in an act that took place at the United States army base and then installed as head of government.

9. The petitioners argue that the number of alleged victims presented in this case shows the widespread destruction and profound victimization inflicted on Panama's society in breach of the OAS Charter and the American Declaration of the Rights and Duties of Man. Concretely, the petitioning party argues that the State's armed forces took action with careless and reckless disregard for the personal safety of Panamanian civilians "in blatant violation of the human rights of Panamanians under the American Declaration."

10. As a result, the petitioning party argues that the State violated basic principles set forth in Articles 11, 14, 16, 19, 18, 20, and 27 of the Charter of the Organization of American States and in Article 2(4) of the Charter of the United Nations, as well as the human rights set forth in Articles I, IV, VI, VII, VIII, IX, XI, XII, XIII, XIV, XX, XXI, XXII, XXIII, XXVII, and XXVIII of the American Declaration of the Rights and Duties of Man and in Articles 3, 5, 17(2), 28, and 30 of the Universal Declaration of Human Rights.

11. The petitioning party asserts that, both during the invasion and the military occupation, the State violated basic principles of customary international humanitarian law such as the principle of distinction between civilians and members of the military, as well as the principles of proportionality and necessity.

12. The petitioners also contend that military intervention and operations of U.S. armed forces in Panama breached the principles of international law that protect civilian lives in times of military combat. In particular, the petitioning party mentions Article 3 of the Fourth Geneva Convention that provides for the obligation to apply "as a minimum" protections for the life and integrity of persons who do not participate directly in hostilities, as well as Articles 51 and 52 of the First Protocol of the Geneva Conventions that forbids indiscriminate attacks against civilians and communities by bombardment.

13. In particular, the petitioners argue that the State is responsible for the excessive use of military force and indiscriminate aerial bombing on densely populated residential communities of Panama, specifically Panama City and the city of Colón, which "led to the loss of thousands of Panamanian lives and jeopardized the personal security of those who survived" entailing a grave violation of entrenched international principles aimed at protecting civilians.

14. According to the petitioning party, the reasons submitted by the United States do not meet the conditions required by Article 52 of the United Nations Charter for the use of armed force as a defense. It maintains that the events preceding the military invasion did not constitute "the threat of an imminent armed attack as required by the UN Charter to justify a claim of self-defense."

15. The petitioning party explains that the December 15, 1989 resolution of Panama's National Assembly in which it declared Panama to be in a state of war was not a declaration of war as such, and did not contain any indication that Panama would attempt to attack the United States. On the contrary, it was a response to actions and provocations, such as the economic sanctions imposed on Panama in 1987 and the freezing of Panamanian assets in the United States. In that respect, the petitioning party asserts that Panama's National Assembly, by granting General Manuel Noriega special powers, declared that the Republic of Panama was "in a state of war" as long as "the acts of aggression by the United States against the people of Panama continue."

16. The petitioning party contends that the incidents with U.S. officials and citizens that were taken by the United States as triggers for the invasion were insufficient to justify an invasion of the offending nation. The petitioners contend that the claim of "defending democracy" as a justification to invade a sovereign nation presents no legal basis under international law for a military attack. As for the existence of a right to protect the Panama Canal under the Panama Canal Treaty and the Treaty Concerning the Permanent Neutrality and Functioning of the Panama Canal invoked by the State to justify its military intervention, the petitioning party alleges that said treaties granted the United States the right to protect the Canal in the event of risk to maritime traffic, but not the right to intervene militarily.

17. The petitioning party emphasizes that, according to the understanding signed by both states, they agreed that the standard on the right to use force did not imply or include the "right of the United States to intervene in the domestic affairs of Panama." The actions of the United States could only be aimed at ensuring that the Canal remained open, safe, and affordable. According to the petitioning party, although the United States alleged that the Government of Panama had harassed U.S. staff and that these threats interfered with the Canal's operations, these activities had not prevented the Canal from functioning.

18. The petitioning party contends that the initial planning for the invasion began by order of the Joint Chiefs of Staff of the United States in February 1988 after the United States accused General Manuel Antonio Noriega of crimes involving illegal drug trafficking and other illegal activities under U.S. law. In that respect, they insist that, prior to the military attack and invasion, the United States had thorough knowledge about Panama, the composition of the Panamanian Defense Forces, the location of their general headquarters, and specific knowledge about the high number of civilians and retail businesses that were located in the vicinity of the military areas.

19. As of 1988, the petitioning party indicates that the Panamanian Defense Forces were comprised of 15,000 units with less than half deemed ready for combat and the remainder in charge of police duties, immigration, customs, and other duties of a civilian nature.

20. The petitioning party complains that there was a plan to evacuate U.S. civilians from areas of Panama City and Colón and a failure to plan for evacuating and protecting Panamanian civilians. They allege as well that the US Government had neither prepared sufficiently nor followed due procedures to identify, register, and dispose of human remains promptly and with the necessary level of detail.

21. By failing to warn the civilian population of an imminent attack, a large number of persons were killed or injured, including children, women, and those whose condition made it impossible for them to flee quickly.

22. The petitioning party questions the official figures presented by the United States government of 202 Panamanian civilians and 314 Panamanian troops who died as a result of the invasion, and they stress that independent figures point to more than 2,000 civilian deaths. For the petitioning party, the way the mortal remains of Panamanian civilians were abandoned underscores that there are reasons to believe that there are more mass graves where persons still missing would be found.

23. In this context, the petitioners allege that the United States did not engage in any planning or preparation to deal with persons displaced or left homeless as a result of the invasion. Regarding this, the petitioning party estimates that 18,000 civilians were left homeless, and those most especially impacted were those from the residential areas of El Chorrillo, Panama City, and Colón.

24. In connection with the foregoing, the petitioning party alleges that the Panamanian civilian victims suffered from cruel, inhuman and degrading treatment because the State failed to fulfill its obligation to protect the civilian population and subjected civilians to circumstances and conduct in refugee camps that violated their right to dignified treatment. In this context they further refer to the impacts on health, economic stability, freedom, and safety as a result of displacement to 17 new areas, as well as the psychological trauma caused by the death and destruction.

25. As for the extensive destruction of property and belongings, the petitioners argue that in a large number of cases the principle of necessity was not applied and losses were sustained as the result of deliberate and illegal acts of the invading force. In particular, with respect to the destruction of El Chorrillo, the petitioning party points out that the indiscriminate bombing of the General Headquarters of the "La Comandancia" Defense Forces located in the area of El Chorrillo, an area densely populated by civilians, began after midnight. The petitioners underline that at least one of the fires in El Chorrillo was the result of the indiscriminate bombardment carried out by US forces, although they note that various civilians claim that American soldiers used flamethrowers to burn the houses. During these events, US forces destroyed homes, businesses and other real estate such as the El Chorrillo Peripheral Market, the juvenile detention center "Tutelar de Menores", a school, and two bus stations. They argue that US forces had complete control over the area by 6:00 a.m. on December 20, 1989.

26. They allege that at the same time that El Chorrillo was burning down because of the attacks, U.S. soldiers started ordering the evacuation of civilians. They point out that US forces denied access to the area of El Chorrillo, as well as to other areas, for three days, even to the Panamanian Red Cross, and in the subsequent days they started clearing operations ordered by US authorities. As a result, buildings were demolished and their rubble thrown into the sea. They contend that these operations destroyed the evidence of illegal bombings, including the mortal remains of civilians.

27. During the intervention and occupation, the petitioning party asserts that the US took possession and control over ministries, the national university, radio stations, and newspaper offices. They state that these forces "took documents, goods, liquor, and even works of art from the National Culture Institute" and participated in the looting of "buildings, stores, museums, and government institutions." They contend that American forces permitted the unbridled destruction of retail businesses and homes.

28. They contend that the United States set up a team to "sell Endara's administration to the Panamanian people" while it installed an environment of persecution against all those identified as pro-Noriega and those who did not show support for the invasion. They argue that "Operation Promote Liberty" was set up and aimed at promoting the false idea that the intentions of the United States were to support and help the Endara administration convert itself into a democratic government that would meet the needs of the people.

29. The petitioners contend that U.S. military forces required the civilian population to set up "neighborhood protection groups" and made calls for the population to disclose information about the

whereabouts of General Noriega and his political allies. As a result, according to the petitioning party, US forces continued their systematic persecution of opponents of the new government, conducting illegal searches house by house where additional damage was done in search of Noriega's followers.

30. In this context, the petitioning party argues that more than 5,000 men were arbitrarily detained and interrogated in prisoner-of-war camps without notifying their families. In these camps, they were subjected to being held outside in the sun and rain for hours with their hands tied behind their back without any kind of protection.

31. The petitioning party, basing their claims on The Hague Conventions of 1907, argues that the occupying power has the duty to take all measures within its power to restore and guarantee public order and security. In that respect, they contend that, in addition to allowing additional damage to be done to the property of victims by failing to take measures to prevent looting, petitioners contend that US forces forcibly installed checkpoints and closed areas such as San Miguelito, El Chorrillo, and Río Hato, and that the invasion left various persons displaced outside of Panama. The State transmitted contradictory information, on the one hand telling members of the community to return to their daily activities, while on the other civilians were being subjected to assaults and homicides at the checkpoints.

32. The petitioning party argues, on the basis of Article 50 of the First Geneva Convention, that the State is responsible for "grave breaches" of humanitarian law. It alleges the intentional and deliberate killing of various victims in the present case as a result of the United States' acts and omissions, which led to "unnecessary suffering and pain inflicted upon the civilian population."

33. As for reparations, the petitioning party proposes the establishment of a commission to compensate Panamanian civilians. In that respect, they propose that it should be based on the model of the United Nations Compensation Commission, with a fund administered by the OAS or the United Nations and funding provided by the United States, especially from the earnings it received for operating the Panama Canal with the possibility of seeking other State funding sources. In the opinion of the petitioning party, the Commission being proposed must have a procedure for filing claims and another for classifying damages.

34. The petitioning party insists that, as a result of the "illegal intervention in violation of the OAS Charter," the United States must be held responsible for providing compensation to all Panamanian civilians who sustained losses of life, personal injury, and the destruction of their homes and property.

35. In this regard, they request the Inter-American Commission to declare that the military invasion of the State of Panama was illegal and violated the OAS Charter, the principles of non-intervention, inviolability of sovereignty, and respect for human rights enshrined in the United Nations Charter, the Geneva Conventions and its protocols, the Panama Canal Treaty of 1977, and the Treaty Concerning the Permanent Neutrality and Functioning of the Panama Canal, pursuant to Article 3 of the OAS Charter. They also request that the IACHR declare that, as a result of these violations of international law and the damage inflicted upon the victims, the State must compensate the petitioners and "all those who had been similarly harmed."

## B. State

36. In its responses, the United States categorically rejects that the petition presents complaints that characterize human rights violations. It states that this case is associated with the U.S. military operation in Panama in December 1989, after Panamanian General Manuel Noriega declared that he was at war with the United States and incited armed provocations by the Panamanian Defense Forces against the U.S. military legally present in Panama in charge of defending the Panama Canal.

37. In the present stage, the State continued to submit arguments with respect to the petition's admissibility, in particular regarding what it views as the failure to exhaust remedies under domestic law, the IAHCR's lack of competence with respect to the subject matter, the absence of details or specificity in the complaints, and the inadmissibility of the case regarding the numerous additional victims not identified by name. Although these arguments shall not be referred to in their entirety in the present section, given that the

aspects related to admissibility were decided upon by the Commission in its Admissibility Report No. 31/93, those that are relevant for the review of the merits shall be presented here.

38. The State maintains that the petitioning party wishes to take the Commission to areas that overstep its sphere of competence set forth in Article 111 of the Charter of the Organization of American States. It adds that a careful review of the claims of the petitioning party makes it clear that they are based and rely entirely on evidence of alleged violations of the Fourth Geneva Convention and other international instruments governing the use of force and humanitarian law. It points out that the Commission is not the suitable forum for denouncing war crimes or other violations of international humanitarian law, because it was not established for this purpose and does not have the expertise to examine or rule on such matters. Finally, the State contends that the petitions are too vague and fail to provide sufficient detail to substantiate a review, even if the Commission did have the authority to consider them.

39. The State asserts that the only human rights obligations legally applicable to the United States and over which the IACR has competence are those set forth in the American Declaration, because the United States has only signed and is not yet a state party to the American Convention on Human Rights.

40. In that regard, the State contends that the marked reliance of the petitioners on the Geneva Conventions is inappropriate because the obligations set out in those Conventions are not included either explicitly or implicitly in the American Declaration and therefore cannot serve as the basis for establishing the competence of the IACR. Likewise, in the opinion of the State, the Commission does not have the power, under the American Declaration, to interpret and enforce the Geneva Conventions and Protocol I as a tacit extension of its authority to promote the observance and protection of human rights.

41. The State argues the approach that considers that the human rights standards generally applicable in times of peace are not, and cannot prevail over, the standards of international law applicable during armed conflicts. In that respect, it states that the American Declaration never eclipses the right to use military force nor does it create new individual rights to receive compensation for damages associated with combat against member states of the OAS as a result of armed hostilities that can otherwise be justified under international law.

42. The State indicates that the military operation was carried out following applicable standards for engaging in combat and making all efforts to minimize the number of civilian victims. It stresses that it regrets all loss of life and damages that took place, but it contends that such losses were the result of various causes including the actions of the Panamanian Defense Forces and the Dignity Battalions, random violence, and U.S. fire consistent with the applicable norms.

43. The State contends that the events preceding the military operation have their origin in the unconstitutional, ceaseless, and increasingly ruthless misappropriation and exercise of power by General Manuel Noriega to the detriment of the legitimate authorities of the Panamanian Government. In that respect, it mentions that, during the years when General Noriega and the military forces allied with him dominated the country's politics, the United States attempted various peaceful means to attend to the political situation in Panama to prevent adverse effects on the implementation of the Panama Canal Treaty. Nevertheless, on February 6, 1988, General Noriega was charged by a grand jury of the United States with the crime of illegal drug trafficking. The State asserts that various domestic and external pleas continued to be made for Noriega to resign, especially after his indictment, but these pleas were repeatedly turned down and he remained in power.

44. The State indicates that the events of May 7, 1989 as facts of special importance, as this is when Noriega annulled the national elections held after the opposition, spearheaded by Guillermo Endara, won decisively. Throughout these events, the United States recalls that it upheld its systematic rejection of the

Noriega regime, as an illegitimate regime, and maintained constant contact and cooperated with President Delvalle and then with President-elect Endara.

45. It also recalls that, on December 15, 1989, at the instigation of Manuel Noriega, the National Assembly declared, without any provocation, that there was a state of war between the Republic of Panama and the United States. As a result, it argues that soon thereafter a series of atrocious and cruel attacks were carried out against U.S. personnel and their dependents. The State maintains that these and other provocations by the Noriega regime, in a volatile context, highlighted the risk to which the lives and well-being of U.S. citizens in Panama, the Canal's operations, and the integrity of the Canal Treaties were being exposed.

46. Under these circumstances, it indicates that then-President George Bush ordered the deployment of about 11,000 troops in addition to the 13,000 that were already legally present in Panama, in order to protect the lives of U.S. citizens, restore democracy in Panama, and defend the rights of the State as agreed upon in the Canal Treaty and its subsequent documents. It contends that, before the additional forces of the State reached Panama, the Mission in charge "informed President-elect Endara of the imminent military plans of the United States." In response, Endara and his two vice-presidents welcomed those plans and began to cooperate fully to implement them. Thus the United States affirms that, on the morning of December 20, 1989, the authorities of the democratically elected government announced the establishment of the new government and took office in a formal swearing-in ceremony.

47. The State indicates that, on December 24, 1989, Noriega requested safe haven in the residence of the Vatican's diplomatic mission. The following days, armed resistance had virtually ceased and the new administration consolidated its control and started reestablishing institutional functions and services. As described by the State, on December 28, 1989, the first contingent of U.S. troops was withdrawn from Panama, and on January 4, 1990, Noriega surrendered to U.S. authorities. By January 31, 1990, active clashes had come to an end. It indicates that, on February 13, 1990, the last contingent of additional troops sent to Panama were withdrawn.

48. The State argues that the actions that took place on December 20, 1989 and subsequent days were confined to what was necessary and proportional and were specifically designed to minimize, to the extent possible, injuries and loss of civilian lives and property.

49. The State argues that the military operation was a legitimate exercise of the right of self-defense set forth in customary international law and explicitly recognized in Article 51 of the United Nations Charter. In that regard, it expresses that this inherent right encompasses measures which a State has the right to use in order to deal with threat or the use of force against any of its nationals or armed forces by another state.

50. The State asserts that the actions did not constitute an intervention into Panama's affairs in violation of international law. Under the circumstances, it was clear to the State that the military operations were carried out with the clear cooperation of President Endara and Panama's legitimate government, as a result of which the actions were conducted in conformity with the Charters of the OAS and UN.

51. The State contends that the military operation was conducted exercising the rights voluntarily granted by Panama under the Panama Canal Treaty. The above-mentioned Treaty of 1977 constitutes, from the State's perspective, an additional legal source justifying the actions taken by the United States. Thus it continues by explaining that, by virtue of Article 3 of the above-mentioned Treaty, the United States secured the right to administer, operate, and safeguard the Canal and, under Article IV.2 of the same instrument, it accepted the principal work of protecting and defending the Canal whereby it was granted the right to position armed forces in Panama.

52. In the State's recounting of events, the exercise of these rights was being severely undermined by General Noriega's growing hostility to the Canal's staff and its interests. Thus the State believes that it had the right, using force for defensive purposes, to adopt effective and proportional measures to protect the 35,000

U.S. nationals in Panama and to defend its strategic and economic interests, as well as ensure the ongoing, efficient, safe, and uninterrupted operations of the Canal.

53. The State asserts that, as a result of traditional national policy, the United States applies customary international law and international humanitarian law standards at all times when it is involved in armed confrontations. Thus it contends that the conduct of members of the military forces during the clashes was in line with applicable standards, including the humanitarian provisions of the Fourth Geneva Convention with regard to the due protection of civilians in times of war.

54. It asserts that international law does not forbid the use of military force, even when collateral damage to innocent civilians might be unavoidable, after all reasonable efforts are made to prevent and minimize any damage.

55. The State argues that, occasionally, strict compliance with the rules of combat and applicable humanitarian law was hampered by various situations stemming from the inhumane practices of the armed forces under Noriega's command when they located their military positions in close proximity to civilian residential areas. The State maintains its position that, under international law and current international practice, there is no obligation to pay compensation to Panamanian civilians who sustained injuries, death, or material losses, when they were unintended and arose from resorting, legitimately and not indiscriminately, to the use and exercise of armed combat.

56. The State insists that the material submitted by the petitioning party, for the most part, has no real value as evidence because it is vague and fails to provide specific information about the actions perpetrated by identifiable U.S. servicemen. It rejects the petitioning party's allegation that all the casualties, injuries, damages, and destruction of property can only be imputed to the United States, neglecting the actions by the Panamanian Defense Forces, the Dignity Battalions, and other Panamanian civilians.

57. The State contends that the burden of proof lies with the petitioning party to provide evidence that all deaths, injuries, or damages for which compensation is being sought were caused by the United States. It claims that, even if this causal link could be demonstrated, there is no theory applicable under international law that could hold the State liable for the incidental deaths of civilians in a combat zone.

58. Despite the allegations made by the petitioning party, the State contends that there is no evidence or record of complaints filed in this process that the armed forces perpetrated acts of homicide, mutilation, cruel treatment, or torture to the detriment of innocent civilians or any other person. It also contends that there is no evidence that the United States engaged in any other prohibited conduct as set out in Article 3.1 of the Geneva Convention.

59. In connection with the complaint that bombs were used indiscriminately, the State asserts that, even if this were part of Protocol I, the conduct of the military during "Operation Just Cause" would not have breached that Protocol. It asserts that every soldier of the 48th Army Corps was sent with a copy of combat standards. These rules specified that the soldiers must treat all civilians and their property with respect and dignity, and that they must restrict the types of weapons that could be used if civilians were present in the area of the military target. These rules provided clear orientation in terms of the level of command that had the authority to approve the use of such weapons.

60. In response to the petitioning party's argument about the armed forces' involvement in grave breaches, according to the terms of the definition of Article 147 of the Fourth Geneva Convention, the State argues that there is no evidence in the case file that was submitted that could substantiate any accusation in that regard. It therefore asserts that, in the exercise of the right of the United States to deploy its military forces to carry out "Operation Just Cause," it had the right to use proportional force to curb the threat from hostile forces. It deems absurd the accusations that the State's servicemen participated in grave breaches, including mass graves, destruction of entire areas, looting, and use of psychological trauma against civilians as a form of torture, among others.

61. The State insists that it did not bury any Panamanian civilian in mass graves. It states that the only time U.S. forces were involved in the burial of Panamanians who died in connection with Operation Just Cause was on December 21, 1989 when the remains of 28 Panamanians were temporarily buried, for reasons of public health and sanitation reasons, in individual graves in the Corozal Cemetery in a sector of Panama under its control. The remains in these graves were then disinterred one week later and delivered to representatives of Panama's Government for identification and final burial.

62. The State indicates that it is aware of two occasions when Panamanians were buried in mass graves by Panamanian authorities. The first was in the Jardín de Paz Cemetery in Panama City, where the remains of 123 Panamanians were buried for reasons of public health and then disinterred on April 28 and May 5, 1990 by the Forensic Office of Panama. The second was in the Mount Hope Cemetery in Colón where the remains of 18 individuals were buried by Panamanian authorities and then disinterred by the same Forensic Office on July 28, 1990.

63. As for the destruction of a large part of El Chorrillo and the dumping of rubble, the State contends that the petitioning party fails to recognize that this took place directly as a result of the fact that the Panamanian Defense Forces chose to locate their command center in this area. The State contends that it was fully authorized by international law to return fire even when this came from offensive groups scattered among civilian constructions. The inevitable and unfortunate consequence of the strategy of Panamanian armed forces was irreparable damage to civilian buildings, which had to be razed to the ground and their rubble dumped for the purpose of protecting the servicemen and civilians who were in the area.

64. The State denies its participation in, or consent given for, the looting that took place in the context of the operation. On the contrary, it states that when this conduct was observed, its forces took action to put a stop to it. The State maintains that it cannot be deemed responsible for the behavior of Panamanians breaching Panamanian law. Importantly, the State affirms that, in the limited number of cases where this conduct was reportedly carried out by members of the US forces, they were tried and punished by American authorities, and in one specific case a soldier was dismissed.

65. The State alleges that it did not intentionally inflict any kind of psychological trauma as a form of torture. It indicated that, without doubt, in the context of the "Operation Just Cause" civilians were traumatized as a common consequence of what civilians experience during military operations. Nevertheless, this does not mean that the incidental trauma was used as an instrument of torture.

66. As for the incidents at the traffic checkpoints, on the one hand the State indicates that it is extremely difficult to investigate specific instances of allegedly serious misconduct, because the petitioning party was permitted to submit cases with a high degree of generality. On the other hand, the United States affirms that to the extent a number of the cases submitted by the petitioning party are in the public domain, it is precisely due to the official investigations that its authorities conducted.

67. The State opposes the petitioning party's request to establish a Compensation Commission because there are no legal grounds for doing so. In that respect, it asserts that neither the American Declaration nor customary international law have established an individual right of action guaranteeing that individuals who are collateral victims of an armed conflict shall receive monetary or any other kind of compensation as a consequence of an armed conflict.

68. In that respect, it calls attention to the substantial economic benefits that have already been brought to Panama in the framework of the U.S. aid programs. The State asserts that these aid programs exceed many times over any material relief that the Commission might recommend.

69. In the view of the United States, it does not have any legal obligation to provide these aid programs, but the fact that they are being provided highlights the humanitarian concern of both the government and the citizens of the United States for the people of Panama. In the opinion of the State, the

substantial amounts granted under such programs have exerted a significant tangible impact on the economy of the areas where the heaviest hostilities occurred.

70. The State explains that Congress allocated 461 million U.S. dollars as part of aid packages to Panama, and on the basis this funding homes were built for almost 3,000 displaced families. These families received temporary shelter and food. It states that additional funds were made available for the purchase of basic furnishings and household appliances. More than 3,500 persons received temporary employment and increased income earnings during the period required to repair schools, highways, roads, and sewage systems.

71. The State reaffirms that, since it has not breached any of the human rights of the petitioners, there is no basis to present the matter of compensation. Nevertheless, it asserts that, out of compassion for the difficult economic circumstances that the country and its citizens have experienced since the end of the Noriega era, Panama has been the beneficiary of one of the largest and most successful economic aid programs of the United States in this hemisphere. In that respect, it mentions that the petitioners in the present case are fully included within the group of Panamanians who would be the beneficiaries of these programs.

72. Concretely, the State contends that the process filed with the IACtHR has been flawed. In that respect, it argues that the processing and hearings with respect to both the admissibility and merits of the case have been chaotic. It recalls that the petitioning party has been allowed to submit various written observations to each one of the State's communications. It also mentions that the IACtHR requested the arguments on the merits even before its objection to IACtHR's competence had been settled.

73. In conclusion, the United States affirms that states are at a disadvantage with respect to the petitioning party when the latter is allowed to submit and add petitioners and arguments of fact at any point in the processing, including even in their final communications. In particular, it asserts that, in the present case, the petitioners and the complaints of violations filed have multiplied exponentially and in general are not specifically linked to any specific individuals, places, or dates, which has made it impossible for the State to investigate the arguments. In the State's view, the petitioners have attempted to transform the present case into a collective action on behalf of the Panamanian people.

### **III. DETERMINATIONS OF FACT**

#### **A. Background and Context**

##### **1. Historical Background**

74. In Panama the period between 1968 and 1981 was characterized by the arbitrary exercise of power under the military leadership of General Omar Torrijos Herrera.<sup>7</sup> On the basis of the 1972 Constitution in force at the time, General Torrijos, as "the Maximum Leader of the Panamanian Revolution" and "Supreme Head of Government," enjoyed numerous, broad, and important constitutional powers, which granted him power without any significant checks or balances and which, because of their nature, led to the suppression of political activity and severe violations of human rights and basic guarantees.<sup>8</sup>

75. After the death of General Torrijos on July 31, 1981, a period of marked instability in the National Guard and Panama's National Government began. It came to an end on August 12, 1983 when General Manuel Antonio Noriega took over command of the National Guard of Panama.<sup>9</sup> Under his command, the National Guard, the Police Force, and the Investigation Services were joined to establish the Panamanian Defense Forces (hereinafter "PDF" or "Defense Forces").<sup>10</sup>

<sup>7</sup> IACtHR. Report on the situation of human rights in Panama. OEA/Ser.L/V/II.44 doc. 38, rev. 1 of June 22, 1978.

<sup>8</sup> IACtHR. Report on the situation of human rights in Panama. OEA/Ser.L/V/II.44 doc. 38, rev. 1 of June 22, 1978.

<sup>9</sup> IACtHR. Report on the situation of human rights in Panama. OEA/Ser.L/V/II.76 doc. 16, rev. 2 of November 9, 1989.

<sup>10</sup> IACtHR. Report on the situation of human rights in Panama. OEA/Ser.L/V/II.76 doc. 16, rev. 2 of November 9, 1989.

76. On May 16, 1984, as a result of the presidential and legislative elections held on May 6, the Electoral Court announced that the winner was the ruling party's candidate, Nicolás Ardito Barletta, despite reports of electoral fraud on a massive scale.<sup>11</sup> Almost one year later, on September 28, 1985 after the resignation of President Ardito Barletta, Vice-President Eric Delvalle took office as the President of Panama.<sup>12</sup>

77. In June 1987, in Panama City, there were protest marches opposing General Noriega and his collaborators. In a context of social and political tension and heavy repression, on June 10, 1987, the Cabinet Council, imposed a state of national emergency by executive decree, whereby constitutional guarantees and rights were suspended.<sup>13</sup> It is important to point out that, among the *consideranda* clauses, the Council included the "situation of permanent disruption of public law and order as a result of the constant calls for violence by persons or political groups interested in taking power" through de facto means such as "acts of aggression."<sup>14</sup>

78. On July 1, 1987, the Permanent Council of the Organization of American States issued resolution No. 477 (702/87) whereby it urged the authorities and all political forces to refrain from taking any measure that might aggravate the crisis in view of the situation in Panama.<sup>15</sup> In this regard, it considered that the grave actions "and abuses of General Manuel Antonio Noriega" in the situation of crisis in Panama could "unleash an escalation of violence with the resulting risks for the life and integrity of persons."<sup>16</sup> It is worth stressing that the Permanent Council underscored the interests of the states in ensuring full compliance with the Panama Canal Treaties, in order to guarantee peace in the hemisphere and free and safe passage through this inter-oceanic route.<sup>17</sup>

79. On May 7, 1989, elections were held to elect the President, Vice-Presidents, and legislators as set forth in national law.<sup>18</sup> Among the presidential candidates were Guillermo Endara, leader of the opposition, and Carlos Duque as the candidate for the then ruling party.<sup>19</sup>

80. Amidst accusations of inappropriate conduct on the part of both political groups, severe social tensions, and serious constraints for the opposition, the government announced, in preliminary results, a clear advantage for the ruling party's candidate. In consequence, the opposition and international observers denounced minor irregularities during the voting on election day, and more severe irregularities during the counting of the votes<sup>20</sup>. Days later, on May 10, 1989, the Electoral Tribunal proceeded to rule that the elections were null and void, because it considered, among other reasons, that as a factual matter there had been a set of limitations stemming from the disruption of the normal conduct of elections "because of the obstructive action of many foreigners."<sup>21</sup>

81. Because of the nullification of the elections, the following September 1, the Comptroller General of the Republic, Francisco Rodríguez, provisionally took office as acting President of Panama, appointed by the Council of State.<sup>22</sup> The new President pointed out that he would call for elections and would hand over the reins of government "as soon as there were suitable conditions for that," referring to the

<sup>11</sup> IACHR. Report on the situation of human rights in Panama. OEA/Ser.L/V/II.76 doc. 16, rev. 2 of November 9, 1989.

<sup>12</sup> IACHR. Report on the situation of human rights in Panama. OEA/Ser.L/V/II.76 doc. 16, rev. 2 of November 9, 1989.

<sup>13</sup> Cabinet Council of Panama. Executive Decree No. 56, whereby a state of emergency is declared and constitutional guarantees are suspended. Official Gazette No. 20.820 of June 11, 1987.

<sup>14</sup> Cabinet Council of Panama. Executive Decree No. 56, whereby a state of emergency is declared and constitutional guarantees are suspended. Official Gazette No. 20.820 of June 11, 1987.

<sup>15</sup> Permanent Council of the OAS. Resolution No. CP/RES 477 (702/87) "Reiteration of the principles and obligations contained in the Charter of the OAS," adopted on July 1, 1987.

<sup>16</sup> Permanent Council of the OAS. Resolution No. CP/RES 477 (702/87) "Reiteration of the principles and obligations contained in the Charter of the OAS," adopted on July 1, 1987.

<sup>17</sup> Permanent Council of the OAS. Resolution No. CP/RES 477 (702/87) "Reiteration of the principles and obligations contained in the Charter of the OAS," adopted on July 1, 1987.

<sup>18</sup> IACHR. Annual Report 1990-1991, Chapter IV Situation of human rights in Panama. OEA/Ser.L/V/II.79, rev.1doc. 12 February 22, 1991.

<sup>19</sup> IACHR. Report on the situation of human rights in Panama. OEA/Ser.L/V/II.76 doc. 16 rev. 2 of November 9, 1989. Chapter VIII.

<sup>20</sup> IACHR. Report on the situation of human rights in Panama. OEA/Ser.L/V/II.76 doc. 16 rev. 2 of November 9, 1989. Chapter VIII.

<sup>21</sup> Electoral Court. Decree No. 58 of May 10, 1989 whereby the elections held in that country were declared null and void.

<sup>22</sup> IACHR. Report on the situation of human rights in Panama. OEA/Ser.L/V/II.76 doc. 16 rev. 2 of November 9, 1989. Chapter VIII.

"cessation of U.S. hostilities" and the return of "funds arbitrarily withheld by the U.S. Government to the National Treasury."<sup>23</sup>

82. Furthermore, two days after the Supreme Court's decision, the Permanent Council of the OAS decided to convene the XXI Consultation Meeting of Foreign Ministers to discuss "the severe crisis of Panama in its international context."<sup>24</sup> In the framework of this meeting, on May 17, 1989, it was decided to designate a Mission comprised of the Foreign Ministers of Ecuador, Guatemala, and Trinidad and Tobago to collaborate with the clashing parties in Panama to seek avenues for compromise to overcome the existing problems, with the assistance of the Secretary General of the Organization.<sup>25</sup>

83. After five visits to Panama, on August 24, 1989, the Chair of the XXI Consultation Meeting released a statement whereby he requested the Inter-American Commission on Human Rights to visit Panama for the purpose of "completing and updating information on the human rights situation in that country."<sup>26</sup> In order to comply with the declaration of the President of the XXI Meeting of Consultation of Ministers of Foreign Affairs, the Commission requested the consent of the Government of Panama to observe *in situ* the situation of human rights in Panama. The Panamanian Government granted the requested consent, however this visit did not materialize<sup>27</sup>.

84. On November 18, 1989, the General Assembly of the OAS adopted resolution No. 990 whereby it asserted the urgent need for democratic electoral processes in which the Panamanian people would voice their will "with all the guarantees needed for the full exercise of universal suffrage" and that it should lead to the establishment of a freely elected government without any foreign intrusion.<sup>28</sup> In particular, the General Assembly voiced its deep concern over the serious violations of rights and basic liberties in Panama.<sup>29</sup>

## **2. Rising Tensions between the Government of Panama and the U.S. government**

85. The relationship between the U.S. Government and the Government of Panama has been largely linked to the operation and administration of the Panama Canal. Regarding this, it is important to recall that the U.S. government started building the Canal on May 4, 1904 as a result of the signing of the Hay-Bunau-Varilla Treaty, which granted the United States a concession in perpetuity for the Canal over which it would have sovereign governance.

86. After various episodes of conflict in 1964 in Panama and difficult negotiations led by General Omar Torrijos in order to have a new treaty on the basis of the Tack-Kissinger Agreement, on September 7, 1977, the following treaties were signed: the Panama Canal Treaty and the Treaty concerning the Permanent Neutrality and Operation of the Panama Canal, better known as the Torrijos-Carter Treaties, which came into force on October 1, 1979.

87. By virtue of the Torrijos-Carter Treaties, Panama's sovereignty over the Canal Zone was recognized and the United States was granted the rights needed to operate the Canal until December 31, 1999. The operating rights included, the primary responsibility for administering and defending the Canal, and for that purpose a U.S. military presence was accepted in Panama.

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<sup>23</sup> IACHR. Report on the situation of human rights in Panama. OEA/Ser.L/V/II.76 doc. 16 rev. 2 of November 9, 1989. Chapter VIII.

<sup>24</sup> Permanent Council of the OAS. Resolution No. CP/RES 522 (776/89) "Convening the XXI Consultation meeting of Ministers of Foreign Affairs," approved on May 12, 1989.

<sup>25</sup> XXI Consultation Meeting of Ministers of Foreign Affairs. Resolution No. I "The severe crisis of Panama in its international context," approved on May 17, 1989.

<sup>26</sup> IACHR. Report on the situation of human rights in Panama. OEA/Ser.L/V/II.76 doc. 16 rev. 2 of November 9, 1989.

<sup>27</sup> IACHR. Annual Report 1989-1990. Chapter II: Activities of the IACHR. OEA/Ser.L/V/II.77rev.1 doc.7. 17 May 1990.

<sup>28</sup> General Assembly of the OAS. Resolution AG/Res 990 (XIX-0/89) "Panama's crisis in the international context," approved on November 18, 1989.

<sup>29</sup> General Assembly of the OAS. Resolution AG/Res 990 (XIX-0/89) "Panama's crisis in the international context," approved on November 18, 1989.

88. In subsequent years and in particular as of 1988, a sharp rise in tensions between the Government of Panama and the U.S. Government became evident, as well as a steep decline in Panamanian society's standard of living and the country's human rights situation.<sup>30</sup>

89. With respect to this, there were several incidents between elements of the Panamanian Defense Forces and U.S. troops stationed in the Canal Zone, as a result of which various persons were injured and there were also fatalities.<sup>31</sup> President Bush accused the Noriega administration of establishing a pattern of harassment against U.S. citizens in Panama after a Navy lieutenant was shot dead, another lieutenant was injured, and other U.S. citizens were detained.

90. On February 6, 1988, in this context of growing tensions between the governments of Panama and the United States, a grand jury in Miami and its counterpart in Tampa, both in the state of Florida, charged General Manuel Noriega for crimes related to illegal drug trafficking.<sup>32</sup> Because of this, on February 25, 1988, during a television broadcast, President Delvalle of Panama announced the dismissal of General Noriega from his post as Commander of the Defense Forces.<sup>33</sup>

91. The following day, the National Assembly proceeded to dismiss President Delvalle and the first Vice-President, Roderik Esquivel, and appoint Manuel Solís Palma as Acting Minister of the Office of the President.<sup>34</sup> In the course of that same day, the President of the United States, Ronald Reagan, proceeded to condemn the dismissal of President Delvalle and the efforts to perpetuate military rule in Panama.<sup>35</sup>

92. On March 11, 1988, the U.S. Government adopted diplomatic and economic sanctions in the context of its ties with Panama for the indicated purpose of contributing to installing a democratic government opposing Noriega's "illegitimate" regime.<sup>36</sup> Among the measures that were ordered, President Reagan included withholding the deposit of payments for Panama Canal rights to a new government.<sup>37</sup>

93. In response, Panama's Cabinet Council declared on March 18, 1988, by means of Decree No. 11, a state of emergency throughout the Republic considering that there was "a real situation of undeclared war" against Panama with "an extremely serious impact on the economic activities, public finance, and all structures of the country's life."<sup>38</sup> In that regard, it warned that the executive branch would be taking measures "to repel domestic and foreign attacks on the national economy and to tackle the state of emergency in which the country is living."<sup>39</sup>

94. On April 8, 1988, President Reagan issued Executive Order No. 12,635 whereby additional measures were adopted against the actions and policies of Manuel Noriega and Manuel Solís Palma because he considered them to be "an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States."<sup>40</sup>

<sup>30</sup> IACHR. Annual Report 1990-1991, Chapter IV Situation of human rights in Panama. OEA/Ser.L/V/II.79, rev.1 doc. 12 February 22, 1991.

<sup>31</sup> IACHR. Annual Report 1990-1991, Chapter IV Situation of human rights in Panama. OEA/Ser.L/V/II.79, rev.1 doc. 12 February 22, 1991.

<sup>32</sup> IACHR. Report on the situation of human rights in Panama. OEA/Ser.L/V/II.76 doc. 16 rev. 2 of November 9, 1989.

<sup>33</sup> IACHR. Report on the situation of human rights in Panama. OEA/Ser.L/V/II.76 doc. 16 rev. 2 of November 9, 1989.

<sup>34</sup> IACHR. Report on the situation of human rights in Panama. OEA/Ser.L/V/II.76 doc. 16 rev. 2 of November 9, 1989.

<sup>35</sup> Office of the President of the United States of America. Statement by Assistant to the President for Press Relations Fitzwater on the Situation in Panama. February 26, 1988.

<sup>36</sup> President of the United States of America. Statement on economic sanctions against Panama. March 11, 1988.

<sup>37</sup> Office of the President of the United States of America. Statement on economic sanctions against Panama released on March 11, 1988.

<sup>38</sup> State Council of Panama. Decree No. 11 whereby a state of emergency is declared throughout the Republic. Official Gazette No. 21,012 of March 21, 1988.

<sup>39</sup> State Council of Panama. Decree No. 11 whereby a state of emergency is declared throughout the Republic. Official Gazette No. 21,012 of March 21, 1988.

<sup>40</sup> Office of the President of the United States of America. Executive Order No. 12,635 "Prohibiting certain transactions with respect to Panama," adopted on April 8, 1988.

95. Among the sanctions adopted, at the request of the diplomatic representatives appointed by the previous Panamanian government, the U.S. government froze all properties and interests in Panamanian Government properties located in the United States of America, including accounts opened in the Federal Reserve Bank of New York, and prohibited any direct or indirect payment to Noriega's regime by the United States or any natural person or legal entity of the United States.<sup>41</sup> In the text, the U.S. government reiterated the purpose of the measures taken to broaden the effectiveness of the actions launched in cooperation with the Government of Panama and its President, Eric Arturo Delvalle.<sup>42</sup>

96. Months later, in response to the measures taken by the U.S. government, on April 25 and August 7, 1989, the representative of Panama sent requests for a meeting with the United Nations Security Council for the purpose of presenting his concerns.<sup>43</sup> As a result of the above-mentioned requests, the Security Council met on April 28 and August 11, 1989 to discuss the situation in Panama.<sup>44</sup>

97. At the first meeting, Panama's representative requested consideration of the serious situation triggered by the series of actions taken by the United States against his country in violation of international law. Among the arguments submitted, the representative emphasized the growing threat of use of military force in Panama and the possibility that deployment of such force might lead to actions of violence.<sup>45</sup>

98. As for the representative of the United States, he affirmed that the military regime continued to subvert any expression of popular will through fraud, coercion, and intimidation.<sup>46</sup> He insisted that Panama's crisis was not the result of his country's intervention in its domestic affairs, but rather of General Noriega's policies.<sup>47</sup>

99. At the second meeting that was held, Panama's representative indicated the need to take specific measures to prevent an armed conflict in view of the rise in activities by U.S. armed forces in Panamanian territory in violation of Panama's territorial sovereignty and integrity, the Panama Canal Treaties, and the United Nations Charter.<sup>48</sup> In that respect, because of the severe threat to the Canal's operation and to peace in Central America, Panama stated its decision to submit to the Council the strict implementation of the Panama Canal Treaty and thus guarantee its normal and efficient functioning.<sup>49</sup>

100. The representative of the United States argued that U.S. military activities in Panama fully complied with the Panama Canal Treaties and explained that the increasing military presence and activity in Panama was a direct response to hostilities by Noriega's regime.<sup>50</sup> It is worth noting that at the conclusion of the second meeting, the President of the Council agreed to schedule the next meeting on this topic in consultation with the members of the Security Council.

101. On December 15, 1989, the General Assembly of Corregimiento Representatives issued resolution No. 10 whereby, after describing the "situation of constant harassment and interference," that body declared a "state of war in the Republic of Panama as long as the aggression unleashed [...] by the Government of the United States of America lasted."<sup>51</sup>

<sup>41</sup> Office of the President of the United States of America. Executive Order No. 12.635 "Prohibiting certain transactions with respect to Panama," adopted on April 8, 1988.

<sup>42</sup>. Office of the President of the United States of America. Executive Order No. 12.635 "Prohibiting certain transactions with respect to Panama," adopted on April 8, 1988.

<sup>43</sup> United Nations Security Council. *Repertoire of the Practice of the Security Council*. Chapter VIII p. 391.

<sup>44</sup> United Nations Security Council. *Repertoire of the Practice of the Security Council*. Chapter VIII p. 391.

<sup>45</sup> United Nations Security Council. *Repertoire of the Practice of the Security Council*. Chapter VIII p. 391.

<sup>46</sup> United Nations Security Council. *Repertoire of the Practice of the Security Council*. Chapter VIII p. 392.

<sup>47</sup> United Nations Security Council. *Repertoire of the Practice of the Security Council*. Chapter VIII p. 392.

<sup>48</sup> United Nations Security Council. *Repertoire of the Practice of the Security Council*. Chapter VIII p. 392-393.

<sup>49</sup> United Nations Security Council. *Repertoire of the Practice of the Security Council*. Chapter VIII p. 392-393.

<sup>50</sup> United Nations Security Council. *Repertoire of the Practice of the Security Council*. Chapter VIII p. 393-394.

<sup>51</sup> General Assembly of the Representatives of the Corregimientos. Resolution No. 10 whereby a state of war is declared in the country and measures are adopted to address foreign aggression. Official Gazette No. 21.435 of December 15, 1989.

102. Among the measures taken to tackle the aggression, the General Assembly designated General Manuel Noriega to take the office of Head of Government as “Maximum Leader of the Struggle for National Liberation” granting him extraordinary emergency powers as long as “the aggression against the country” lasted.<sup>52</sup>

### 3. Operation Just Cause

104. On the night of December 19 to December 20, 1989, U.S. armed forces, under orders from President George Bush, initiated a military operation in the territory of Panama with the stated purpose of “protecting the life of U.S. citizens, restoring democracy in Panama, asserting the State’s rights to implement the Panama Canal Treaty and bring General Noriega to justice in the United States.”<sup>53</sup> As part of its strategy, the State made use of U.S. troops that were on Panamanian territory because of the Panama Canal Treaty and had previously ordered the deployment of additional troops.<sup>54</sup>

105. That same night, before the additional troops deployed by the U.S. government landed on Panamanian territory, the official in command informed Guillermo Endara and Messrs. Ricardo Arias Calderón and Guillermo Ford Boyd about the imminent plans for U.S. military action.<sup>55</sup> On the morning of December 20, 1989, they were sworn in as Constitutional President and Vice-Presidents of Panama, respectively, at a ceremony held at a U.S. military base located in the Cana Zone.<sup>56</sup> In a brief lapse of time, the new administration, with support from U.S. armed forces, took over control of the country.<sup>57</sup>

106. On the basis of the factual recounting of the two parties in this case, there were about 24,000 troops from various branches of the United States’ armed forces during the military operation.<sup>58</sup> During the military intervention, the soldiers simultaneously attacked various strategic points with the intention of undermining the Panamanian Defense Forces and preventing General Noriega from escaping. In that regard, there were clashes in the Command Center, the Central Headquarters of the Defense Forces, and their neighboring areas, including El Chorrillo, in various areas of Panama City, in the airports of Punta Paitilla and Torrijos-Tocumen, in Río Hato, Fuerte Amador, and the city of Colón, among others.

107. The military intervention continued during the 20th, in the course of which the U.S. forces destroyed the Central Headquarters of the Defense Forces and dominated the principal centers of military resistance.<sup>59</sup> In the two following days, there were sporadic clashes in Panama City with the Dignity Battalions and the Defense Forces as they surrendered the remaining military centers.<sup>60</sup>

108. On December 21, 1989, President Endara issued the “statute for the immediate restoration of constitutional law and order” which set forth guidelines for appointing various authorities to the branches of government of Panama.<sup>61</sup> In the framework of these actions, the Panamanian Defense Forces were dissolved and city policing was progressively established on the basis of U.S. military patrols the following days.<sup>62</sup>

<sup>52</sup> General Assembly of the Representatives of the Corregimientos. Resolution No. 10 whereby a state of war is declared in the country and measures are adopted to address foreign aggression. Official Gazette No. 21.435 of December 15, 1989. See also General Assembly of the Representatives of the Corregimientos. Resolution No. 11 whereby special powers are granted to the Head of Government. Official Gazette No 21.435 of December 15, 1989.

<sup>53</sup> Brief submitted by the state on January 8, 1991. See also speech broadcast on national television by the President of the United States of America, George Bush, on December 20, 1989. Available at: <https://www.youtube.com/watch?v=MDZMseL6G10>.

<sup>54</sup> Brief submitted by the State on January 8, 1991.

<sup>55</sup> Brief submitted by the State on January 8, 1991.

<sup>56</sup> Brief submitted by the State on January 8, 1991.

<sup>57</sup> Brief submitted by the State on January 8, 1991.

<sup>58</sup> IACHR. Annual Report 1990-1991, Chapter IV Situation of human rights in Panama. OEA/Ser.L/V/II.79, rev.1 doc. 12 February 22, 1991. See also Brief submitted by the state on January 8, 1991; and Annex 3. Brief of the initial petition submitted by the petitioning party.

<sup>59</sup> IACHR. Annual Report 1990-1991, Chapter IV Situation of human rights in Panama. OEA/Ser.L/V/II.79, rev.1 doc. 12 February 22, 1991.

<sup>60</sup> IACHR. Annual Report 1990-1991, Chapter IV Situation of human rights in Panama. OEA/Ser.L/V/II.79, rev.1 doc. 12 February 22, 1991.

<sup>61</sup> Office of the President of Panama. Statute for the Immediate Full Reinstatement of Constitutional Order. Official Gazette No. 21.440 of December 21, 1989.

<sup>62</sup> IACHR. Annual Report 1990-1991, Chapter IV Situation of human rights in Panama. OEA/Ser.L/V/II.79, rev.1 doc. 12 February 22, 1991.

109. On December 24, General Manuel Antonio Noriega took refuge in the Vatican diplomatic mission (*Nunciatura Apostólica*) in Panama and, on January 4, 1990, surrendered to U.S. troops.<sup>63</sup> General Noriega was immediately arrested and taken to the United States to be tried for alleged crimes involving illegal drug trafficking.<sup>64</sup>

110. By January 31, 1990, hostilities had ceased and by February 13, 1990, the last contingent of additional U.S. troops brought to Panama had left the country.<sup>65</sup>

111. In the framework of these events, the loss of at least 202 civilian lives was confirmed, as well as a large number of injured persons, although there continues to be controversy over the exact figures. Significant damage and the destruction of homes and retail businesses were confirmed, as well as the displacement of more than 15,000 civilians to refugee camps located in private and government buildings.

112. Likewise, during the military operation, looting of retail businesses and homes took place at the same time.<sup>66</sup> On December 20 and subsequent days, a large number of arrests were also made<sup>67</sup>. The prisoners were originally placed in ad hoc detention camps under the surveillance of U.S. military forces.<sup>68</sup> These camps eventually housed over 3,000 persons, who were later released or transferred to Panamanian prisons on the order of the Public Prosecution Service (*Ministerio Público*).<sup>69</sup>

#### **4. International statements made about Operation Just Cause**

113. The incidents that took place in the framework of Operation Just Cause, as well as the human rights violations that were reported, became the focus of concern and statements made by various international organizations, national governments and international human rights organizations. Specifically, in the framework of the meetings of the United Nations Security Council held on December 20 and 21, 1989, the states of Nicaragua, the Union of Soviet Socialist Republics, China, Nepal, Ethiopia, Algeria, Malaysia, Cuba, and Yugoslavia declared their rejection of the military operation carried out by the U.S. armed forces in Panama.<sup>70</sup> The State of Finland voiced its rejection indicating that the military intervention was a disproportionate and reproachable reaction.<sup>71</sup>

114. In the context of these meetings, the states of Algeria, Colombia, Ethiopia, Malaysia, Nepal, Senegal, and Yugoslavia submitted the draft resolution to be presented for a vote, the text of which included a strong condemnation of the military intervention in Panama as a flagrant violation of international law.<sup>72</sup> There were 10 votes in favor of adopting this resolution, and 4 votes cast against it by the states of France, Canada, the United Kingdom, and the United States.<sup>73</sup> The representatives of France and the United Kingdom explained that their vote had stemmed from the unbalanced language of the resolution as it did not mention the situation that Panama was experiencing under Noriega's regime.<sup>74</sup>

115. On December 29, 1989, by means of resolution No. 44/240, the General Assembly of the United Nations condemned the military action as it considered that the action constituted a "flagrant violation

<sup>63</sup> U.S. Joint Staff Historical Study. Operation Just Cause, planning and execution (February 1988–January 1990). Annex A of the Brief submitted by the petitioning party in February 1995.

<sup>64</sup> Brief submitted by the State on January 8, 1991; and Annex 3. Brief of the initial petition submitted by the petitioning party.

<sup>65</sup> U.S. Joint Staff Historical Study. Operation Just Cause, planning and execution (February 1988–January 1990). Annex A of the Brief submitted by the petitioning party in February 1995.

<sup>66</sup> IACHR. Annual Report 1990-1991, Chapter IV Situation of human rights in Panama. OEA/Ser.L/V/II.79, rev.1 doc. 12 February 22, 1991.

<sup>67</sup> Americas Watch. The laws of war and the conduct of the Panama invasion. A.M. Papers, 10 de mayo de 1990, págs. 35 y ss.

<sup>68</sup> IACHR. Annual Report 1990-1991, Chapter IV Situation of human rights in Panama. OEA/Ser.L/V/II.79, rev.1 doc. 12 of February 22, 1991.

<sup>69</sup> IACHR. Annual Report 1990-1991, Chapter IV Situation of human rights in Panama. OEA/Ser.L/V/II.79, rev.1 doc. 12 of February 22, 1991.

<sup>70</sup> United Nations Security Council. Repertoire of the Practice of the Security Council. Chapter VIII p. 394-399.

<sup>71</sup> United Nations Security Council. Repertoire of the Practice of the Security Council. Chapter VIII p. 399.

<sup>72</sup> United Nations Security Council. Repertoire of the Practice of the Security Council. Chapter VIII p. 400.

<sup>73</sup> United Nations Security Council. Repertoire of the Practice of the Security Council. Chapter VIII p. 400.

<sup>74</sup> United Nations Security Council. Repertoire of the Practice of the Security Council. Chapter VIII p. 401.

of international law and of the independence, sovereignty and territorial integrity" of States.<sup>75</sup> In that respect, it called for the immediate cessation of the intervention and the withdrawal from Panama of the "armed invasion forces of the United States."<sup>76</sup> Specifically, the resolution expressed profound concern with respect to the serious consequences that this action may have for peace and security in the Central American region.<sup>77</sup>

116. As for the American States, they formalized their rejection on December 22, 1989 when they met for a session of the OAS Permanent Council and expressed, by means of resolution 534 (800/89), their deep regret for the military intervention in Panama and urged the immediate cessation of hostilities and the withdrawal of foreign troops.<sup>78</sup> The resolution, which was adopted by all the states except for the United States of America, referred in emphatic terms to the international principle of non-intervention, and to a "deep concern about the serious incidents and loss of life" that had taken place.<sup>79</sup>

117. In the Inter-American sphere, in the exercise of its mandate the Inter-American Commission on Human Rights expressed concern specifically about: 1) the legal and procedural situation of all the persons who had been deprived of their liberty as a result of the military intervention of the United States and their treatment while they were in prison; ii) the possibility, for the family members of those who had died in the armed struggle of December 20, 1989, of gaining access to information and having the mortal remains of the victims handed over to them, and iii) any possible human rights violations that would have occurred during, after, and as a result of the incidents of December 20, 1989.<sup>80</sup> In subsequent reports, the IACRH continued to believe that there were still aspects requiring further clarification with respect to the human rights situation of Panama's inhabitants.<sup>81</sup>

118. Shortly after the invasion, international human rights organizations such as Americas Watch and Physicians for Human Rights presented reports assessing the military actions carried out by the US armed forces and the damage suffered by the Panamanian civilian population.

119. Americas Watch produced a report entitled "The Laws of War and the Conduct of the Panama Invasion",<sup>82</sup> and subsequently presented another entitled "Human Rights in Post-Invasion Panama: Justice delayed is justice denied".<sup>83</sup> In its first report, this organization analyzed issues related to the deaths of civilians; the persons held as prisoners of war; inspections, detentions and arrests of civilians; the displaced; as well as the violations committed by the armed forces of General Noriega and human rights under the government of Endara. Among other considerations, Americas Watch questioned the official number of deaths recognized by the Panamanian state and the United States government, and concluded that the tactics and weaponry used by US forces resulted in a disproportionate number of civilian victims in violation of specific obligations under the Geneva Conventions. Concerning the events that took place in the neighborhood of El Chorrillo, Americas Watch determined that US forces had violated the rule of proportionality, which mandates that the risk of damage to impermissible targets be weighed against the military necessity of the objective pursued.<sup>84</sup> In addition it considered that the attack on El Chorrillo and a similar attack in an urban area of Colon were carried out without prior warning to civilians, notwithstanding that the absence of the element of surprise

<sup>75</sup> General Assembly of the United Nations. Resolution No. 44/240 "Effects of the military intervention by the United States of America in Panama on the situation in Central America," adopted on December 29, 1989.

<sup>76</sup> General Assembly of the United Nations. Resolution No. 44/240 "Effects of the military intervention by the United States of America in Panama on the situation in Central America," adopted on December 29, 1989.

<sup>77</sup> General Assembly of the United Nations. Resolution No. 44/240 "Effects of the military intervention by the United States of America in Panama on the situation in Central America," adopted on December 29, 1989.

<sup>78</sup> Permanent Council of the OAS. Resolution CP/RES 534 (800/89) "Serious events in the Republic of Panama," adopted on December 22, 1989.

<sup>79</sup> Permanent Council of the OAS. Resolution CP/RES 534 (800/89) "Serious events in the Republic of Panama," adopted on December 22, 1989.

<sup>80</sup> IACRH. Annual Report 1989-1990. Chapter IV Situation of human rights in Panama. OEA/Ser.L/V/II.77rev.1 Doc.7 of May 17, 1990.

<sup>81</sup> IACRH. Annual Report 1989-1990. Chapter IV Situation of human rights in Panama. OEA/Ser.L/V/II.77rev.1 Doc.7 of May 17, 1990.

<sup>82</sup> Americas Watch. The Laws of war and the conduct of the Panama invasion. A.M. Papers. May 10, 1990.

<sup>83</sup> Americas Watch. Human Rights in Post-Invasion Panama: Justice Delayed is Justice Denied. April 7, 1991.

<sup>84</sup> Americas Watch. The laws of war and the conduct of the Panama invasion. A.M. Papers. May 10, 1990.

would not have affected the result, thus violating the permanent duty of the attacking forces to minimize damage to civilians.<sup>85</sup>

120. For its part, Physicians for Human Rights published its report entitled "Operation Just Cause: the human cost of military action in Panama"<sup>86</sup>. Among its conclusions, this organization also questioned the official figure of the deceased and presented a figure of at least 300 civilians killed and 3,000 injured. It also highlighted the official announcement of 23 deceased US soldiers. It considered that relief efforts were inadequate to meet the basic needs of those who lost their homes and pointed out that the large-scale use of sophisticated weapons by the invading troops was aimed at dissuading Panamanians from resistance by presenting an overwhelming superiority of firepower<sup>87</sup>.

### **5. Events Subsequent to the Military Invasion**

121. On December 22, 1989, the new government ordered a curfew throughout the country's territory,<sup>88</sup> recognizing that the actions of December 20 had "substantially altered the life of the citizenry and the country's peaceful coexistence."<sup>89</sup>

122. Meanwhile, the Electoral Tribunal of Panama, following the installment of the new government, repealed its own Decree No. 58/89, whereby it had rendered null and void the elections of May 7, 1989, and by declaring their validity, confirmed that the list of nominees headed by the new President had won the vote.<sup>90</sup>

123. As a result of the "statute of immediate restoration of constitutional law and order" of December 21, 1989, the new government appointed, during the first months of 1990, new authorities of the executive, judicial, and legislative branches of government, as well as the Police Force and the Office of the Comptroller General.<sup>91</sup>

124. As for the measures adopted by the new government, the IACHR was apprised, among other things, of the reopening of media that had been shut down, the return of other media to their legitimate owners, the release of former servicemen involved in failed military attempts at overthrow, as well as civilians held on charges of undermining public security, and the dismantling of the Defense Forces.<sup>92</sup>

125. In the framework of the dismantling of the Defense Forces, the government stated that various officers had been definitively dismissed and that Manuel Noriega had been stripped of his rank and fired from his position.<sup>93</sup> It also repealed the suspension of the bearing of arms, permitting the use of certain guns and rifles,<sup>94</sup> and empowered high-ranking authorities and agencies of ministries, autonomous entities, state enterprises, and other public institutions to dismiss or declare "null and void" the appointments of civil servants who had belonged to, participated in, or been members of "paramilitary groups of the so-called CODEPADI, dignity battalions, or other similar groups"<sup>95</sup> previously brought into office by General Noriega.

<sup>85</sup> Americas Watch. The laws of war and the conduct of the Panama invasion. A.M. Papers. May 10, 1990.

<sup>86</sup> Physicians for Human Rights. Operation Just Cause: the human cost of military action in Panama. October 1991.

<sup>87</sup> Physicians for Human Rights. Operation Just Cause: the human cost of military action in Panama. October 1991.

<sup>88</sup> Office of the President of Panama. Resolution No. 1 ordering a curfew throughout the country's territory. Official Gazette No. 21.461 of January 25, 1990.

<sup>89</sup> Office of the President of Panama. Resolution No. 1 ordering a curfew throughout the country's territory. Official Gazette No. 21.461 of January 25, 1990.

<sup>90</sup> IACHR. Annual Report 1989-1990. Chapter IV Situation of human rights in Panama. OEA/Ser.L/V/II.77rev.1 Doc.7 of May 17, 1990.

<sup>91</sup> Office of the President of Panama. Statute for the Immediate Restoration of Constitutional Law and Order. Official Gazette No. 21.440 of December 21, 1989.

<sup>92</sup> IACHR. Annual Report 1989-1990. Chapter IV Situation of human rights in Panama. OEA/Ser.L/V/II.77rev.1 Doc.7 of May 17, 1990.

<sup>93</sup> Cabinet Council of Panama. Decree No. 2 whereby staff measures are adopted in the Public Law and Order Forces of Panama. Official Gazette No. 21.448 of January 2, 1990.

<sup>94</sup> Ministry of the Interior and Justice. Decree No. 46 whereby Resolution 10 of May 15, 1989 is repealed and other provisions are issued. Official Gazette No. 21.465 of January 31, 1990.

<sup>95</sup> Cabinet Council of Panama. Cabinet Decree No. 1 where by the structure of state institutions are stabilized. Official Gazette No. 21.442 of December 26, 1989. See also Cabinet Council of Panama. Cabinet Decree No. 20 whereby certain measures are adopted to stabilize the organization of state entities whose civil servants are governed by special laws. Official Gazette No. 21.470 of February 7, 1990.

Finally, the established government organized the public law and order force into “the National Police Force, the National Air Service, and the National Maritime Service”<sup>96</sup> for the purpose of getting rid of “the vestiges of militarism” in response to the “Panamanian people’s call” to not have a national army.<sup>97</sup>

126. In this context, the U.S. Government adopted programs of assistance to the government of Panama. In that respect, it launched an economic recovery program for Panama, which included loans, guarantees, and export opportunities to build up Panama’s private sector,<sup>98</sup> and another program, through the United States Agency for International Development (hereinafter “USAID”) to help reform the criminal justice system in Panama<sup>99</sup> for the purpose of changing and strengthening the judicial system, the district attorneys, and public defense attorneys, with the contribution of a substantial amount of funding.<sup>100</sup>

127. With respect to those who had been harmed by the invasion, the Commission confirmed efforts being made by the Government of Panama to respond to some of the most desperate situations, although in the opinion of various sectors, much of the damages stemming from the above-mentioned events had not been satisfactorily resolved.<sup>101</sup> The Commission particularly noted that, even when the housing shortages of 2,860 families in the area of El Chorrillo had been addressed, there have been no reparations of any kind made to the families whose members were killed or injured in the context of the invasion.<sup>102</sup>

128. Following the efforts of the petitioning party, the Argentine Forensic Anthropology Team (hereinafter “EAAF”) visited Panama from July 9 to August 2, 1995 with the objective of providing assistance to the Center for Constitutional Rights in the investigation and systematization of the events that occurred during the invasion and subsequent military occupation of the United States in the Panamanian territory, in particular with preliminary investigations on the possible existence of common graves.<sup>103</sup> As a result of this visit, the EAAF prepared a report in which it indicated that preliminary excavations in the Pacora cemetery had to be suspended due to heavy flooding in the area without having been able to reach any definite conclusion on the site.<sup>104</sup> Among its conclusions, the EAAF highlighted that there were no full lists of Panamanians killed during the military intervention so far, as neither of the two countries involved had made exhaustive efforts in establishing definitive lists on the number of deaths and disappeared Panamanians, or concerning the circumstances in which they died.<sup>105</sup> Likewise, the EAAF concluded that a more in-depth investigation would very possibly determine an increase in the number of deaths.<sup>106</sup>

129. On July 20, 2016, by means of Executive Decree No. 121, the Government of Panama established the “December 20, 1989 Commission” as an independent truth commission.<sup>107</sup> In this decree, the Office of the President of Panama recognized that, more than 26 years after the invasion of December 20, 1989

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<sup>96</sup> Cabinet Council of Panama. Cabinet Decree No. 38 whereby public law and order forces are organized. Official Gazette No. 21.479 of February 20, 1990.

<sup>97</sup> Cabinet Council of Panama. Cabinet Decree No. 38 whereby public law and order forces are organized. Official Gazette No. 21.479 of February 20, 1990.

<sup>98</sup> Writ submitted by the state on January 8, 1991.

<sup>99</sup> General Accountability Office. Report to the President, Foreign Operations Subcommittee of the U.S. Senate Committee on Appropriations: Aid to Panama “Improving the Criminal Justice System.” GAO/NSIAD-92-147 May 1992.

<sup>100</sup> General Accountability Office. Report to the President, Foreign Operations Subcommittee of the U.S. Senate Committee on Appropriations: Aid to Panama “Improving the Criminal Justice System.” GAO/NSIAD-92-147 May 1992.

<sup>101</sup> IACHR. Annual Report 1991. Chapter IV Situation of human rights in Panama. OEA/Ser.L/V/II.81Doc. 6 rev. 1 of February 14, 1992.

<sup>102</sup> IACHR. Annual Report 1991. Chapter IV Situation of human rights in Panama. OEA/Ser.L/V/II.81Doc. 6 rev. 1 of February 14, 1992.

<sup>103</sup> EAAF. Report to the Inter-American Commission on Human Rights of the OAS. Annex 1 of the petitioner’s post-hearing brief received on November 6, 1995, p. 1.

<sup>104</sup> EAAF. Report to the Inter-American Commission on Human Rights of the OAS. Annex 1 of the petitioner’s post-hearing brief received on November 6, 1995, p. 1.

<sup>105</sup> EAAF. Report to the Inter-American Commission on Human Rights of the OAS. Annex 1 of the petitioner’s post-hearing brief received on November 6, 1995, p. 16.

<sup>106</sup> EAAF. Report to the Inter-American Commission on Human Rights of the OAS. Annex 1 of the petitioner’s post-hearing brief received on November 6, 1995, p. 16.

<sup>107</sup> Ministry of Foreign Affairs. Executive Decree No. 121 whereby the December 20, 1989 Commission is established. Official Gazette No. 28.078-A of July 20, 2016.

"clarification of the truth and, especially, full knowledge about the number and identities of those who lost their lives because of the event are still required."<sup>108</sup>

130. In connection with the efforts made by this December 20, 1989 Commission, it is important to stress that the texts of the Commission's Internal Regulations and the Regulations for Registration in the Unified Registry of Victims, as well as a provisional list of victims, are all available to the public. The petitioning party added that the United States had expressed its clear willingness to work with the Government of Panama to clarify the events that took place.<sup>109</sup>

## B. Facts with Respect to the Alleged Victims

131. During the processing of this case before the Inter-American Commission, the petitioning party submitted relevant and specific information about the alleged Panamanian victims, as well as a few who were nationals of other countries, mentioned in the 272 filings that comprise the case.<sup>110</sup> The petitioners submitted statements of alleged victims and/or family members, as well as more general and contextual information. The State, on the other hand, presented general and contextual information as well as arguments regarding the legitimacy of the actions of its forces, and in only a very few instances presented an analysis on what was denounced in each filing. Below, the IACtHR presents the information that is available regarding each of these situations, with a breakdown by type of alleged violation.

132. On the basis of the statements presented by the alleged victims and the other information available, the Inter-American Commission has verified that certain circumstances in which alleged violations took place did occur in the context of the first days of the occupation, in particular from December 20 to 24, 1989, when the highest number of confrontation took place between the Panamanian Defense Forces and the U.S. armed forces.

133. As presented by the petitioning party, and the State has not challenged this, the impact was greatest in the areas of El Chorrillo, Panamá Viejo, San Miguelito, and the city of Colón. The extent of the impact is directly linked to the fact that strategic Panamanian military posts were located in these areas, and the U.S. armed forces considered these posts crucial to achieve the goals of the military operation.<sup>111</sup>

134. The IACtHR observes that, according to the statements submitted by the alleged victims, there are marked similarities among the circumstances described, including in distinct zones of the country. In a small number of instances, identified in the respective annexes, the Commission has taken note of individuals whose names are included in statements presented by presumed victims in relation to general descriptions of facts during the military operation in their respective areas, but absent reference to specific facts or allegations that would characterize a human rights violation.<sup>112</sup> Consequently, these persons will not be included in the assessment of the facts and of the law of this report.

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<sup>108</sup> Ministry of Foreign Affairs. Executive Decree No. 121 whereby the December 20, 1989 Commission is established. Official Gazette No. 28.078-A of July 20, 2016.

<sup>109</sup> Letter from the petitioning party sent on February 17, 2016. At the public hearing held on December 9, 2016 during the 160th session before the IACtHR, the representation of the State indicated that the US has held meetings with the members of the December 20 Commission, in which they have collaborated with the work plan of said commission.

<sup>110</sup> The victims in the present case are those persons identified in the 272 petitions sent by the petitioner in the course of the year 1990 and included in Admissibility Report No. 31/93. The present determination is made for the purpose of individualizing the universe of the alleged victims in the proceeding before the IACtHR -- without prejudice to the subsequent recognition, by State bodies, of other individuals as victims of human rights violation in the context of the United States of America's invasion of Panama, which took place as from December 20, 1989--, in particular those identified by the petitioning party in the testimonies submitted as Annexes to the communication made by the Center for Constitutional Rights on February 8, 1995.

<sup>111</sup> Brief of additional information submitted by the petitioning party on June 29, 1990; Brief of additional information submitted by the petitioning party on September 19, 1991; and U.S. Joint Staff Historical Study. Operation Just Cause, planning and execution (February 1988–January 1990). Annex A of the Brief submitted by the petitioning party in February 1995.

<sup>112</sup> Annex 1. List of persons identified in the present case as those who lost their life or were injured and their respective nuclear family

## 1. Persons Who Were Killed<sup>113</sup>

135. As a preliminary point, it is important to recall that, in the framework of its Annual Report 1990-1991, the IACHR stressed the controversy between the United States and Panamanian civil society about the real figure for civilian deaths as a result of the invasion of Panama. This doubt emerged as a consequence of the marked difference between the official figure provided by United States Southern Command, that is, 202 civilians and fewer than 100 servicemen, and the figures quoted by other sources such as Americas Watch, the Panamanian Committee, Physicians for Human Rights, and spokespersons of the Catholic Church, that generally suggest a figure ranging from 300 to 600 Panamanians killed.<sup>114</sup> Likewise, on the basis of information presented and gathered during its official visit, the IACHR stressed the imprecision and uncertainty regarding the circumstances of the deaths.

136. With respect to the group of alleged victims claiming violations to the right to life in the present case, the Commission indicates that the petitioning party reiterated information, which was broadly consistent, on the participation of the U.S. armed forces at motor vehicle checkpoints, mass graves, and on the use of military weapons. With respect to, the use of military arms during Operation Just Cause, it is a fact recognized by the parties that the U.S. armed forces used, in particular, helicopters and aircraft equipped with explosive weaponry. The State used this weaponry to neutralize the strategic centers of the Panamanian Defense Forces, located in places with a high demographic density of civilians.

137. It is important to stress that, in various cases described, the family members of the alleged victims filed complaints with the Public Prosecution Service in Panama for the deaths of their family members that occurred during Operation Just Cause.<sup>115</sup> The response to these complaints was the issuance of ruling of provisional dismissal, on the basis that it was impossible to attribute responsibility to particular persons "because of the complex difficulty of finding the persons who perpetrated the incidents."<sup>116</sup>

138. It must be noted that, in a large number of the complaints filed before the IACHR, witnesses were identified, and attempts were made to go to local and national authorities in Panama, as well as to U.S. authorities. In particular, the organizations of victims that arose in response to these events pursued the exhumation carried out in the Jardín de Paz Cemetery and the Monte Esperanza Cemetery. As was detailed, the petitioning party coordinated the participation of the Argentinian Forensic Anthropology Team, who tried to launch exploratory work to corroborate whether or not there were mass graves in the cemetery of Pacora. During its visit to Panama from July, 9 to August, 2 1995, however, the Team was unable to reach any final conclusion because of the suspension of activities due to heavy flooding in the area.<sup>117</sup>

139. Below the IACHR provides the available information about the alleged victims in the light of the statements made by their family members. In particular, it was confirmed that, out of the 272 petitions received, 50 of them involve persons who died in the framework of the facts of this case.

### 1.1 In the Context of the Use of Bombs

140. *Dionisia Meneses Castrellón de Salas*, identified in Case No. 1, was a 58-year-old woman and a Panamanian national.<sup>118</sup> In the afternoon of December 22, 1989, a helicopter of the U.S. Armed Forces started to fire projectiles against the building known as "15 Piso" located in the city of Colón, in response to presumed shots coming from individuals located on the top floor.<sup>119</sup> According to the statements made, one of these projectiles reached building 4050 where the Salas Castrellón family lived, leading to severe damage. Ms.

<sup>113</sup> Annex 1. List of persons identified in the present case as those who lost their life or were injured and their respective nuclear family.

<sup>114</sup> IACHR. Annual Report 1990-1991, Chapter IV Situation of human rights in Panama. OEA/Ser.L/V/II.79, rev.1.

<sup>115</sup> See Annexes of the cases identified under No. 11, No. 73, No. 74, No. 77, and No. 98, among others.

<sup>116</sup> See Annexes of the cases identified under No. 11, No. 73, No. 74, No. 77, and No. 98, among others.

<sup>117</sup> Report from the Argentinian Forensic Anthropology Team to the Assistant Prosecutor of the Republic of Panama issued on September 22, 1995. Annex to the brief with additional information submitted by the petitioning party on November 6, 1995.

<sup>118</sup> Statement referring to case No. 1. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990.

<sup>119</sup> Additional statement from José Salas Galindo of January 31, 1990 referring to case No. 1. Annex to the communication from the petitioning party received on August 5, 1994.

Meneses, who was in the kitchen, was injured “with her legs and intestines completely destroyed.”<sup>120</sup> According to her death certificate, Ms. Meneses died from multiple injuries in her home in Colón.<sup>121</sup>

141. As a result of the impact itself, her children and brother were also injured and their home set on fire.<sup>122</sup> Nevertheless, during the incident, they received no assistance from the soldiers.<sup>123</sup>

142. This situation was reported to the U.S Army South Claims Department in Panama on the basis of a letter of February 14, 1990, written by the husband of Dionisia Meneses, José Isabel Salas Galindo, providing a detailed description of what had taken place.<sup>124</sup> On March 25, 1990, this US authority acknowledged that it was “aware of the damages” and specified that there was no “program to compensate him for his loss.”<sup>125</sup> The USARSO Command Claims Department added in its response that “in the event that, in the future, a compensation program is set up, your report shall be forwarded to the suitable authorities for processing.”<sup>126</sup>

143. *Demetrio López González*, identified in Case No. 64, was a 26-year-old man and a Panamanian national.<sup>127</sup> On December 20, 1989, around one o’clock in the morning, a fire broke out on the patio of his house located in El Chorrillo. He was trapped by the fire and died. His family describes that just prior to this they heard “a hail of gunfire,” “cannon shots” and observed the passing of helicopters that “were firing flares.”<sup>128</sup> According to his death certificate, he was buried in the Jardín de Paz Cemetery.<sup>129</sup>

144. *Victoria Hurtado Cádiz*, identified in Case No. 71, was a Panamanian national and, at the time of the incidents, a 78-year-old woman.<sup>130</sup> According to information provided, on December 20, 1989, after the “bombing took place” around 1 a.m., she was caught in a fire inside her home on a high floor of a building located in El Chorrillo.<sup>131</sup> The remains of Ms. Hurtado were found when the rubble was removed, and those remains were identified two weeks after the invasion.<sup>132</sup>

## 1.2 In the Context of Alleged Clashes between the PDF and U.S. Troops

145. *José Félix Baquedo*, identified in Case No. 65, was a 34-year old man and Panamanian national.<sup>133</sup> According to statements, on December 22, 1989, at 5:40 p.m., José Baquedo left his home located in San Miguelito to go to the house of a customer for an upholstery job. A few blocks from his house, “a clash

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<sup>120</sup> Additional statement from José Isabel Salas of February 9, 1990 referring to case No. 1. Annex to the communication from the petitioning party received on August 5, 1994.

<sup>121</sup> Death certificate referring to case No. 1. Annex to the communication from the petitioning party received on August 5, 1994.

<sup>122</sup> Statement referring to case No. 1. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990.

<sup>123</sup> Statement referring to case No. 1. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990.

<sup>124</sup> Letter from José Isabel Salas of February 14, 1990 addressed to the U.S Army South Claims Department referring to case No.1. Annex to the communication from the petitioning party received on August 5, 1994.

<sup>125</sup> Communication by the USARSO Command Claims Service of March 25, 1990 addressed to José Isabel Salas referring to case No. 1. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990.

<sup>126</sup> Communication by the USARSO Command Claims Service of March 25, 1990 addressed to José Isabel Salas referring to case No. 1. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990.

<sup>127</sup> Statement referring to case No. 64. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>128</sup> Statement referring to case No. 64. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>129</sup> Death certificate referring to case No. 64. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>130</sup> Statement referring to case No. 71. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>131</sup> Statement referring to case No. 71. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>132</sup> Statement referring to case No. 71. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991. See also Death certificate referring to case No. 71. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>133</sup> Statement referring to case No. 65. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

with the U.S. army caught him by surprise" as a result of which he was injured by a bullet that hit his "left submandibular area" causing a cardiopulmonary arrest.<sup>134</sup>

146. *Martín Alberto Barrios Montes*, identified in Case No. 81, was a 24-year-old young man and Panamanian national.<sup>135</sup> On December 22, 1989, around 2 p.m., Mr. Martín Barrios was with his brother-in-law in front of the "Villa Las Fuentes" Building fixing his car, when an armed clash began.<sup>136</sup> In this situation, Mr. Barrios Montes received a gunshot wound, as a result of which he was taken by his brother-in-law to San Fernando Hospital where he died moments later.<sup>137</sup>

147. *Luis Reyes Justiniani Vega*, identified in Case No. 92, was a 34-year-old man and Panamanian national.<sup>138</sup> According to his death certificate and a statement made by his uncle Moisés Justiniani, on December 22, 1989 at 2:30 p.m. he was heading home when, at a barricade located in Río Abajo, he was injured in the cervical area.<sup>139</sup>

148. *Rolando Braddick Vásquez*, identified in Case No. 270, was 34-year-old Panamanian national who worked as a seaport engineer.<sup>140</sup> According to the statement made, on December 22, 1989, at about 9 a.m. he was in line to answer a call made by Arias Calderón at the "Albrook traffic stop" and "a shootout began"<sup>141</sup> in which Rolando Braddick received multiple gunshot injuries. His remains were buried in a mass grave in Jardín de Paz.<sup>142</sup> Petitioners indicate that the US troops registered that he had been killed.<sup>143</sup>

### 1.3 As a Result of Incidents at a Traffic Checkpoint

149. *Ernesto Martínez Paredes, Andrea Aide Reid, Henry Leopoldo Bailey Smith, and Luis Alberto Castillo Gotti*, identified in Cases No. 10, No. 20, No. 93, No. 78, and No. 86, respectively, were Panamanian nationals between the ages of 19 and 24 at the time of the incidents. According to statements made by the family members of the victims, on December 23, 1989, at 10:30 p.m., Andrea Reid and a person with a gunshot wound identified as Mario Iglesias arrived in a small van owned by the latter at the house of a physician living at 3rd street in Parque Lefevre.<sup>144</sup> When the physician recommended taking him to a hospital, Ernesto Martínez, Henry Bailey, and Luis Castillo climbed into the van to accompany them.<sup>145</sup>

<sup>134</sup> Statement referring to case No. 65. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>135</sup> Statement referring to case No. 81. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>136</sup> Statement referring to case No. 81. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>137</sup> Statement referring to case No. 81. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>138</sup> Statement referring to case No. 92. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>139</sup> Death certificate referring to case No. 92. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>140</sup> Statement referring to case No. 270. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>141</sup> Statement referring to case No. 270. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>142</sup> Statement referring to case No. 270. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>143</sup> Table on places to gather and register names of the United States of America Government. Annex 5 of the Commissioner's Notebook of Petitioner's Evidence on the Merits.

<sup>144</sup> Statement referring to case No. 10. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990; Statement referring to case No. 20. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990.

<sup>145</sup> Statement referring to case No. 10. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990; Statement referring to case No. 78. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

150. Immediately after they were turned away at the Río Abajo Hospital Clinic, they decided to head to the Social Security Hospital Complex at the level of Abastos de Transísmica.<sup>146</sup> On the way they were stopped at a checkpoint and a soldier from the checkpoint, when hearing shots ringing in the distance, started to shoot at the van.<sup>147</sup> As a result of 38 gunshots fired at the motor vehicle, Henry Bailey died from a "shattered skull,"<sup>148</sup> Luis Castillo from a "chest injury and abdominal trauma,"<sup>149</sup> Andrea Reid from a "traumatic brain injury,"<sup>150</sup> and Ernesto Martínez, who was driving the bus, died from unidentified injuries,<sup>151</sup> all as a result of gunshot wounds.<sup>152</sup>

151. The families were notified by the Public Prosecution Service that the dead had been buried in the mass grave at the Jardín de Paz.<sup>153</sup>

152. It should be noted that, for its Annual Report 1990-1991, the Commission had received information about this episode, which it described as "especially grave."<sup>154</sup> Regarding this, it was apprised that:

*On December 23, Mr. Mario Alberto Iglesias, 25 years old, was injured while driving, during curfew, a yellow motor vehicle at 10:45 a.m. with Ms. Andrea Reid, 22 years old. He requested help to reach the hospital and five young men, Eduardo Paredes, Ernesto Martínez, Luis Alberto Castillo, Henry Leopold Bailey, and Claudio de Roux, neighbors of 3rd Street, who were allegedly guarding a barricade to defend their neighborhood from attacks by the Dignity Battalions, accompanied this motor vehicle and the injured person to a physician, who sent them to the Río Abajo Clinic and from there they went to the Social Security Hospital. As reported to the Commission, they were waving a white flag from the side window to identify themselves as noncombatants. After being searched at a checkpoint of the U.S. armed forces, when they were leaving to go to the hospital, these armed forces machine-gunned the motor vehicle killing all seven passengers. The report received by the Commission indicates that the machine gunning occurred as a reaction to unknown gunshots. The case, according to information that was received, is being investigated by the U.S. Army.<sup>155</sup>*

153. *Luisa Marcela Wilson Harrow*, identified in Case No. 69, was a 32-year-old woman and Panamanian national, who lived in the city of Colón.<sup>156</sup> According to the statement, on December 20, 1989, around 1:30 a.m., Luisa Wilson, in the company of unidentified persons, was looking for shelter while driving a car.<sup>157</sup> When they were in the vicinity of the "Supermercado Rey" of 16th Street in the city of Colón, they were

<sup>146</sup> Statement referring to case No. 10. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990; Statement referring to case No. 20. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990; Statement referring to case No. 78. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991; Statement referring to case No. 93. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>147</sup> Statement referring to case No. 10. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990; Statement referring to case No. 93. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>148</sup> Statement referring to case No. 10. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990; Death certificate referring to case No. 78. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>149</sup> Death certificate referring to case No. 86. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>150</sup> Death certificate referring to case No. 93. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>151</sup> Death certificate referring to case No. 10. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990.

<sup>152</sup> Death certificate referring to case No. 10. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990; Death certificate referring to case No. 78. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991; Death certificate referring to case No. 86. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991; and Death certificate referring to case No. 93. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>153</sup> Statement referring to case No. 93. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>154</sup> IACHR. Annual Report 1990-1991, Chapter IV Situation of human rights in Panama. OEA/Ser.L/V/II.79, rev.1.

<sup>155</sup> IACHR. Annual Report 1990-1991, Chapter IV Situation of human rights in Panama. OEA/Ser.L/V/II.79, rev.1.

<sup>156</sup> Statement referring to case No. 69. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>157</sup> Statement referring to case No. 69. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

stopped at a checkpoint by U.S. soldiers. Immediately thereafter, according to the statement that was presented, the soldiers started to shoot, as a result of which Ms. Luisa Wilson was gravely injured.<sup>158</sup> According to her death certificate, she died from “a gunshot wound to the head and loss of brain tissue.”<sup>159</sup>

154. *Alcides Guillermo Mena Sanjur*, identified in Case No. 75, was a 25-year-old man and Panamanian national.<sup>160</sup> According to the recounting that was presented, on December 25, 1989, at about 5:30 p.m., he was driving a couple with their baby in his taxicab. On the way to a drugstore he had to stop the car in front of a checkpoint station located on the Justo Arosemena Avenue, after which, according to information provided, the U.S. soldiers started to shoot until Ms. Efigenia Alicia Algaredona de Olivares waved a handkerchief out of the window.<sup>161</sup> As a result of the shots, Mr. Alcides Mena and the passenger Mr. Olivares died whereas the woman and baby did not sustain any injury.<sup>162</sup> According to the death certificate that was presented, Mr. Mena died from a “wound from a gunshot that penetrated his chest.”<sup>163</sup>

155. *Reinaldo Arístides Medina Iglesias*, identified in Case No. 76, was a 31-year-old man and Panamanian national.<sup>164</sup> According to information presented, on December 20, 1989, he was riding a bus going to La Chorrera when the vehicle became the target of shots in Albrook.<sup>165</sup> As a result of this incident, Mr. Reinaldo Medina and other persons died. From documents presented, it was confirmed that he was buried in a mass grave at the Jardín de Paz Cemetery, having died as a result of a gunshot wound.<sup>166</sup>

156. Under circumstances that were similar to those described in the paragraph above is the case of *Pablo Emilio Jaén Peralta*, identified in Case No. 100, who was a 64-year-old man and Panamanian national.<sup>167</sup> According to the case file, on December 20, 1989, he was also travelling in the bus on the route from Panama City to La Chorrera when the vehicle was “machine gunned by U.S. troops” in the area of Albrook.<sup>168</sup> His remains were also found in the mass grave at the Jardín de Paz Cemetery with a gunshot wound.<sup>169</sup>

157. *José de los Santos Espinosa Rivera*, identified in Case No. 101, was a 34-year-old Panamanian national who worked as an international transit agent.<sup>170</sup> According to the statement presented, on December 20, 1989, he was travelling in a car belonging to the Hydraulic Resources and Electrification Institute (hereinafter the “IRHE”) on the Chorrera highway, and when “they came upon U.S. soldiers,”<sup>171</sup> the driver went

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<sup>158</sup> Statement referring to case No. 69. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>159</sup> Death certificate referring to case No. 69. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>160</sup> Statement referring to case No. 75. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>161</sup> Statement referring to case No. 75. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>162</sup> Statement referring to case No. 75. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>163</sup> Death certificate referring to case No. 75. Annex to the communication from the petitioning party received on August 5, 1994.

<sup>164</sup> Statement referring to case No. 76. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>165</sup> Statement referring to case No. 76. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>166</sup> Death certificate referring to case No. 76. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>167</sup> Statement referring to case No. 100. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>168</sup> Statement referring to case No. 100. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>169</sup> Death certificate referring to case No. 100. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>170</sup> Statement referring to case No. 101. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>171</sup> Statement referring to case No. 101. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

into reverse and they were brutally attacked by the soldiers.”<sup>172</sup> According to his death certificate, he died of a “traumatic hemorrhagic shock from gunshot wounds” at La Chorrera on December 20, 1989.<sup>173</sup>

158. *Alfredo Santamaría Rojas, Florentino Espinoza Rodríguez, Agripino Gallardo Cedeño, Eugenio Gutiérrez Araúz, and Saba Espinoza Rodríguez*, identified in Cases Nos. 89, 112, 113, 114, and 219, respectively, were Panamanian nationals between 23 and 30 years of age.<sup>174</sup> According to information provided, Florentino Espinoza, Eugenio Gutiérrez, and Saba Espinoza were non-combatant servicemen,<sup>175</sup> whereas Alfredo Santamaría and Agripino Gallardo were masons.<sup>176</sup>

159. According to statements presented, in the afternoon of December 23, 1989, the five men left in a car to go to the house of Agripino Gallardo’s sister located in an area known as Arosemena de Chilibre.<sup>177</sup> After not hearing about their whereabouts, their respective families started to look for them and were unable to find them.

160. Griselda Gallardo Cedeño, Agripino Gallardo Cedeño’s sister, went to various localities with photographs of the missing men until she found witnesses to the events that had taken place on that same day of December 23.<sup>178</sup> According to descriptions by the witnesses, the U.S. soldiers ordered the five men to get out of the car and lie down on the ground at a checkpoint or roadblock near the location of Madden Dam on the Transísmica Highway in Chilibre.<sup>179</sup> When they were on the ground, an explosion was heard, and because of this a U.S. soldier gave the order to shoot the detainees. One of them survived, and the same soldier ordered that he be shot again.<sup>180</sup> According to the same account, the bodies remained there until December 25, 1989 when they were transferred to Coco Solo Hospital and buried in the mass grave at Monte Esperanza in Colón.<sup>181</sup>

<sup>172</sup> Statement referring to case No. 101. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>173</sup> Death certificate referring to case No. 101. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>174</sup> Statement referring to case No. 89. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991; Statement referring to case No. 112. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991; Statement referring to case No. 113. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991; Statement referring to case No. 114. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991; and Statement referring to case No. 219. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>175</sup> Statement referring to case No. 112. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991; Statement referring to case No. 114. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991; and Statement referring to case No. 219. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>176</sup> Statement referring to case No. 89. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991; and Statement referring to case No. 113. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>177</sup> Statement referring to case No. 113. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991. See also Statement referring to case No. 89. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991; Statement referring to case No. 112. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991; Statement referring to case No. 114. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991; and Statement referring to case No. 219. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>178</sup> Testimony of Griselda Gallardo attached to the statement referring to case No. 113. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>179</sup> Statement referring to case No. 89. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>180</sup> Sworn statement made by Griselda María Gallardo Cedeño at the Office of the Third Municipal Ombudsman of the District of Colón on February 21, 1990, referring to case No. 113. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991; and Sworn statement made by Candida Mela Pimentel on February 21, 1990, referring to case No. 113. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>181</sup> Sworn statement made by Griselda María Gallardo Cedeño at the Office of the Third Municipal Ombudsman of the District of Colón on February 21, 1990, referring to case No. 113. Annex to the brief of additional information submitted by the petitioning party on September

161. With this information, their family members went to the Public Prosecution Service and, on February 21, 1990, filed a complaint with the Third Senior District Attorney's Office of the First Judicial District.<sup>182</sup> In the framework of the prosecution's investigation to find the remains, the person in charge of the funeral home, Theodore Olliviere, indicated the place where days earlier the remains of unidentified persons had been buried.<sup>183</sup> On the basis of this information, on February 23, 1990, an exhumation was carried out at the location identified by the person in charge in Monte Esperanza, and the bodies of the five, who had until then been missing, were found, along with other human remains.<sup>184</sup>

162. On the basis of the remains that were retrieved, the cause of death for each one was determined. In that respect, Agripino Gallardo Cedeño died from "destruction of the braincase or cranial cavity and bones of the face, in addition to multiple fractures from gunshot wounds,"<sup>185</sup> Florentino Espinoza Rodríguez from "multiple fractures and gunshot wounds,"<sup>186</sup> Eugenio Gutiérrez Araúz from "destruction of the braincase and upper jaw because of gunshot wounds,"<sup>187</sup> Saba Espinoza Rodríguez from "destruction of bones of the face and jaw because of gunshot wounds,"<sup>188</sup> and Alfredo Santamaría Rojas from "the destruction of his braincase, bone of the right side of his face, and his chest because of gunshot wounds."<sup>189</sup>

163. In the framework of the complaint and investigations, Griselda Gallardo reported acts of intimidation against the witnesses by a man identified as bearing the last name Milanez, who had also expressed his intentions to talk to her.<sup>190</sup>

164. It is worth noting that, on the basis of information presented in the case file, a soldier identified as Sergeant Robert Bryant was court-martialed in the United States for unpremeditated homicide during the military invasion in Panama.<sup>191</sup> From this process, versions emerged indicating that one of the passengers in the car had a grenade and had used it against the U.S. soldiers; the sergeant, who had been born in Colón but was a U.S. national, declared that use of his weapon had been justified.<sup>192</sup>

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<sup>191</sup> 1991; and Sworn statement made by Candida Mela Pimentel on February 21, 1990, referring to case No. 113. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>192</sup> Delivery order issued by the Office of the Third Municipal Ombudsman of the District of Colón referring to case No. 113. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991; and Testimony by Griselda Gallardo attached to the statement referring to case No. 113. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>193</sup> Proceedings for the Disinterment and Identification of Bodies, filed on February 23, 1990, with reference to case No. 113. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991; Sworn statement made by Griselda María Gallardo Cedeño at the Office of the Third Municipal Ombudsman of the District of Colón on February 21, 1990, with reference to case No. 113. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>194</sup> Official letters No. 74 and No. 75 from the Third Municipal Ombudsman of Colón addressed to Dr. Carlos Bernard of the Forensic Medicine Institute and to Mr. Theodore Alvin Hutchinson, respectively, on February 22, 1990 with reference to case No. 113. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991; and Annex 53. Official letter No. 04-301 from Dr. Carlos de Bernard of the Forensic Medicine Institute of April 9, 1990 with reference to the results of the disinterment carried out on February 23 and 26, 1990, with reference to case No. 113. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>195</sup> Death certificate referring to case No. 113. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>196</sup> Death certificate referring to case No. 112. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>197</sup> Death certificate referring to case No. 114. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>198</sup> Death certificate referring to case No. 219. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>199</sup> Death certificate referring to case No. 89. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>200</sup> Statement referring to case No. 113. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>201</sup> Press clippings attached to the statement referring to case No. 113. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991; see also Brief of final observations made by the state received on March 29, 1996.

<sup>202</sup> Press clippings attached to the statement referring to case No. 113. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

165. For its part, the State submitted certain general information that has relevance to this case.<sup>193</sup> In this regard, it indicated that, according to the investigative report prepared by the Criminal Investigation Command of the US Army, this was an incident in which a soldier shot and killed a Panamanian. It found that five Panamanians in a vehicle were ordered to stop at a checkpoint after which, during a routine inspection, a grenade hidden in the vehicle was detonated<sup>194</sup>. The State explained that the US soldiers fired on the Panamanians in self-defense, several soldiers were wounded and four Panamanians died. According to the State, it was not possible to distinguish if the cause of the deaths had been the detonation of the grenade or the shooting. The fifth Panamanian had been wounded by the explosion and then made a movement which was interpreted by a soldier as threatening so he fired.<sup>195</sup> This last soldier was tried by Court Martial and acquitted for murder.<sup>196</sup>

#### **1.4 Other Circumstances, Unclarified Circumstances and Mortal Remains Found in Mass Graves**

166. *Elizabeth Ramos Rudas*, identified in Case No. 3, was a 23-year-old woman and a Panamanian national.<sup>197</sup> According to information in the case file, on the night of December 19, 1989, she was with her sister who was giving birth at Santo Tomás Hospital.<sup>198</sup> As from the events taking place in the early morning of December 20, her family did not have any information about her or her whereabouts until her body was found in a mass grave in Jardín de Paz.<sup>199</sup> According to her death certificate, Elizabeth Ramos had died on December 20, 1989 from gunshot wounds.<sup>200</sup>

167. *Rosa Victoria Vanegas Marín*, identified in Case No. 61, was a 69-year-old woman and Panamanian national.<sup>201</sup> According to the account of her son, who witnessed what took place on December 24, 1989, around 5:00 p.m., Ms. Rosa Vanegas, who was ill and accompanied by her son, was being transferred to a hospital in a Red Cross vehicle.<sup>202</sup> When she was next to the Vatican diplomatic mission, according to her son Fabio Vanegas, U.S. soldiers shot at the vehicle and severely wounded his mother.<sup>203</sup>

168. Ms. Rosa Vanegas was buried in the mass grave in Jardín de Paz before her family was able to claim her remains, notwithstanding that she had been identified in the morgue of Santo Tomás Hospital.<sup>204</sup> It is important to stress that the death certificate presented by the petitioning party indicates that she died from metastatic lung cancer. A photograph of the remains was also presented, where she appears without clothing and in a black bag. A different death certificate indicates that the cause of death was a "closed chest injury" in the context of "war."<sup>205</sup>

169. *Luis Gustavo Torreglosa Estrada*, identified in Case No. 63, was a 35-year-old man and a Panamanian national.<sup>206</sup> According to the account presented, on the night of December 19, 1989, he exited his car in the company of two other unidentified persons, and when they were in front of the San José Church "a

<sup>193</sup> Brief of final observations made by the State received on March 29, 1996, p.14.

<sup>194</sup> Brief of final observations made by the State received on March 29, 1996, p.14.

<sup>195</sup> Brief of final observations made by the State received on March 29, 1996, p.14.

<sup>196</sup> Brief of final observations made by the State received on March 29, 1996, p.14.

<sup>197</sup> Statement referring to case No. 3. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990.

<sup>198</sup> Statement referring to case No. 3. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990.

<sup>199</sup> Statement referring to case No. 3. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990.

<sup>200</sup> Death certificate referring to case No. 3. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990.

<sup>201</sup> Statement referring to case No. 61. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>202</sup> Statement referring to case No. 61. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>203</sup> Statement referring to case No. 61. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>204</sup> Statement referring to case No. 61. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>205</sup> Death certificate referring to case No. 61. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>206</sup> Statement referring to case No. 63. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

group of Americans dressed as civilians" started to shoot at the car.<sup>207</sup> His family learned about the incident on the radio. As a result, on December 20, 1989, his brother recognized him on the floor of the morgue "with a gunshot wound to the back of his neck, the bullet having exited through his forehead, and another to his leg."<sup>208</sup> According to the death certificate presented, Mr. Luis Torreglosa died from a "traumatic brain injury from a gunshot wound" in Calidonia around 1:00 a.m. on December 20, 1989.<sup>209</sup>

170. *Juan Luis Marcicq Brun*, identified in Case No. 66, was a 50-year-old man, a Panamanian national, and resident of Paso Blanco, Pacora.<sup>210</sup> According to information presented, his family was notified of his death on December 20, 1989.<sup>211</sup> When the invasion was launched, he was in Panama City; nevertheless, to date there is no information about the circumstances of his death. It is worth noting that the death certificate that was presented indicates that his cause of death was a wound from a gunshot penetrating his head.<sup>212</sup>

171. *Claudio Alejandro de Roux Figueroa*, identified in Case No. 67, was a 21-year-old man at the time of the facts and a Panamanian national.<sup>213</sup> According to information provided, Claudio de Roux was admitted to the emergency room of Santo Tomás Hospital on December 24, 1989 at 12:05 a.m. with multiple gunshot wounds to his back and died from a cardiopulmonary arrest at 2:45 a.m.<sup>214</sup> According to the death certificate provided by the petitioning party, Mr. de Roux was buried in the mass grave at Jardín de Paz.<sup>215</sup>

172. According to information submitted for the IACRH's Annual Report 1990-1991, this victim died in circumstances described by statements referred to in Cases No. 10, No. 20 and No. 93, No. 78, and No. 86. Nevertheless, in this particular case, the IACRH only has the documents cited and does not have a specific statement in reference to this victim.

173. *Rosa Stanford Fardines*, identified in Case No. 68, was a 58-year-old Panamanian woman.<sup>216</sup> On December 23, 1989, according to the statement that was presented by her husband Joseph Pile, Rosa Stanford left the house at about 11:30 a.m. to go shopping in the area of Pedregal San Joaquín; she was shot in the jaw and was taken to Santo Tomás Hospital.<sup>217</sup> Her husband adds that "they took charge of burying them in the mass grave at Jardín de Paz."<sup>218</sup> According to her death certificate, she died from a gunshot wound to her abdomen on December 23 at 11:30 a.m.<sup>219</sup>

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<sup>207</sup> Statement referring to case No. 63. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>208</sup> Statement referring to case No. 63. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>209</sup> Death certificate referring to case No. 63. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>210</sup> Statement referring to case No. 66. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>211</sup> Statement referring to case No. 66. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>212</sup> Death certificate referring to case No. 66. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>213</sup> Statement referring to case No. 67. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>214</sup> Emergency room records from Santo Tomás Hospital referring to case No. 67. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>215</sup> Death certificate referring to case No. 67. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>216</sup> Statement referring to case No. 68. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>217</sup> Statement referring to case No. 68. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>218</sup> Statement referring to case No. 68. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>219</sup> Death certificate referring to case No. 68. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

174. *Bellatriz Mercedes Galván Serrano*, identified in Case No. 70, was a woman living in El Chorrillo; she was a 32-year-old Panamanian.<sup>220</sup> At 1:45 a.m. on December 20, 1989, her family members heard about the incidents that had occurred in El Chorrillo and because of that they tried to contact her.<sup>221</sup> Her family looked for her without success in centers for those displaced by combat, hospitals, and morgues. According to the account presented, on December 29, at Gorgas Hospital, her mother Mercedes Serrano, after talking to U.S. servicemen who were there, was able to obtain information from a secretary who told her that Bellatriz Galván had been buried in the mass grave at Jardín de Paz on December 24.<sup>222</sup> From the number assigned to her daughter, the mother was able to retrieve certain belongings of Bellatriz Galván, among which she received her identity papers and even the birth certificates of her children.<sup>223</sup> Although the death certificate indicates she died from a gunshot wound on December 21, 1989 in the area of Albrook,<sup>224</sup> to date the family does not know the exact circumstances of her death.

175. *Adolfo Lara Acosta*, identified with Case No. 73, was a Panamanian national whose job was to operate equipment at the airport of Tocumen.<sup>225</sup> According to the account presented, on December 19, 1989, he showed up at his workplace at 10:00 p.m. At 1:00 in the morning, he was handling cargo flights belonging to the airlines Aeronica and Ecuatoriana when he and other co-workers were caught by surprise by "bombs and gunshots" from the U.S. army.<sup>226</sup> Looking for shelter, the workers scattered and Mr. Adolfo Acosta ended up fatally wounded by a gunshot.<sup>227</sup> According to information, his body was taken "to the Howard base, deposited in a black bag and buried in a mass grave."<sup>228</sup> On May 5, 1990, his body was recovered during the exhumation of the mass grave at Jardín de Paz.<sup>229</sup>

176. According to the examination of the Forensic Medicine Institute and the death certificate presented, Adolfo Lara died in his Tocumen Airport cargo company uniform<sup>230</sup> from a gunshot wound to his head and right arm.<sup>231</sup>

177. Regarding this same case, Mr. Sebastián Vergara Pino, son of Adolfo Lara's co-worker, Sebastián Vergara Hinestroza who also died in the context of the same incident, filed a complaint for prosecution with the Second Senior District Attorney's Office of the First Judicial District.<sup>232</sup> This authority ruled a provisional dismissal of the case on June 29, 1990.<sup>233</sup>

<sup>220</sup> Statement referring to case No. 70. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>221</sup> Statement referring to case No. 70. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>222</sup> Statement referring to case No. 70. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>223</sup> Statement referring to case No. 70. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>224</sup> Death certificate referring to case No. 70. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>225</sup> Statement referring to case No. 73. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>226</sup> Statement referring to case No. 73. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>227</sup> Statement referring to case No. 73. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>228</sup> Statement referring to case No. 73. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>229</sup> Death certificate and photograph referring to case No. 73. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>230</sup> Identification from the Forensic Medicine Institute of the Public Prosecution Service issued on January 8, 1990. Annex to the communication from the petitioning part received on August 5, 1994.

<sup>231</sup> Death certificate referring to case No. 73. Annex to the communication from the petitioning part received on August 5, 1994.

<sup>232</sup> Complaint filed by Sebastián Vergara Pino with the Third Senior District Attorney's Office of the First Judicial District on February 26, 1990 referring to case No. 221. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>233</sup> Complaint filed by Sebastián Vergara Pino with the Third Senior District Attorney's Office of the First Judicial District on February 26, 1990 referring to case No. 221. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

178. *Ariel Reimar Martínez Achon and Humberto Achon Arauz*, identified in Case No. 74, were Panamanian nationals.<sup>234</sup> According to the statement made by Mr. Fabio Martínez, Ariel Martínez's father, on the night of December 22, 1989, Ariel and his cousin Humberto were fatally wounded by gunshots coming from a U.S. armed forces combat team nicknamed "killers of the night,"<sup>235</sup> who had indiscriminately fired at residents of the neighborhood Altos del Chase.

179. According to testimony from Mr. Martinez, hours previously, these victims and other civilians residents of Altos del Chase, including Humberto Achon's father, had set up a surveillance committee for the purpose of watching over the neighborhood and preventing attacks by the Dignity Battalions, following instructions given by the Minister of the Interior and Justice of President Endara's government, Ricardo Arias Calderón.<sup>236</sup> While they were together in the street during the day, "Americans with small tanks" recommended that they wear white armbands on their left arm and right thigh so they would be recognized as non-combatant individuals.<sup>237</sup>

180. At the time of the incidents, the civilians meeting in the neighborhood of Altos de Chase were wearing white armbands and were armed with sticks, machetes, iron rods, and small-caliber handguns.<sup>238</sup> Around 9:30 p.m. "the killers of the night" appeared with small tanks, who suspended the firing when a neighbor identified as Mr. Cruz, who was a Puerto-Rican national and retired U.S. Army serviceman "spoke to them in English saying they were people of peace."<sup>239</sup> The survivors, including Humberto' Achon's father, were detained, taken to Clayton, and released the next day after they had made their statements.<sup>240</sup> In Clayton they were informed that "the bodies of those who had died were at Gorgas Hospital<sup>241</sup> and that they would be informed when the bodies would be handed over to them."<sup>242</sup>

181. On December 25, 1989, according to the account by Mr. Martínez, a U.S. Army colonel, accompanied by a soldier and an attorney identified as Julie Torres, appeared at their home to inform them that the remains had been buried in Jardín de Paz, and they were given a yellow paper bearing the name and assigned number.<sup>243</sup> At that time, these persons "extended their condolences and informed them that a tactical mistake had been made."<sup>244</sup>

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<sup>234</sup> Statement referring to case No. 74. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>235</sup> Lawsuit filed by Fabio Martínez with the Fourth Senior District Attorney's Office of the First Judicial District of Panama for the homicide of Ariel Martínez referring to case No. 74. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>236</sup> Lawsuit filed by Fabio Martínez with the Fourth Senior District Attorney's Office of the First Judicial District of Panama for the homicide of Ariel Martínez referring to case No. 74. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>237</sup> Lawsuit filed by Fabio Martínez with the Fourth Senior District Attorney's Office of the First Judicial District of Panama for the homicide of Ariel Martínez referring to case No. 74. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>238</sup> Lawsuit filed by Fabio Martínez with the Fourth Senior District Attorney's Office of the First Judicial District of Panama for the homicide of Ariel Martínez referring to case No. 74. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>239</sup> Lawsuit filed by Fabio Martínez with the Fourth Senior District Attorney's Office of the First Judicial District of Panama for the homicide of Ariel Martínez referring to case No. 74. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>240</sup> Lawsuit filed by Fabio Martínez with the Fourth Senior District Attorney's Office of the First Judicial District of Panama for the homicide of Ariel Martínez referring to case No. 74. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>241</sup> Known at the time of the incidents as the Gorgas Army Community Hospital, under the protection of the U.S. Government.

<sup>242</sup> Lawsuit filed by Fabio Martínez with the Fourth Senior District Attorney's Office of the First Judicial District of Panama for the homicide of Ariel Martínez referring to case No. 74. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>243</sup> Lawsuit filed by Fabio Martínez with the Fourth Senior District Attorney's Office of the First Judicial District of Panama for the homicide of Ariel Martínez referring to case No. 74. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>244</sup> Lawsuit filed by Fabio Martínez with the Fourth Senior District Attorney's Office of the First Judicial District of Panama for the homicide of Ariel Martínez referring to case No. 74. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

182. *Ricardo Aurelio Arana Riquelme* and *Luis Antonio Guadamuz Branda*, identified in Cases No. 77 and No. 98, respectively, were Panamanian nationals.<sup>245</sup> According to the statements presented, on December 22, 1989, they left home to go to the store called "El Chance" in Calidonia to get some toys.<sup>246</sup> Although a relative was able to contact them and found out that they were heading back home, there was no information about their whereabouts or destination.<sup>247</sup>

183. On the basis of the case file at the Second Superior Court of Justice, it is known that the victims were identified in the morgue of Santo Tomás Hospital with gunshot wounds to the head and chest, respectively, wounds received that same day, December 22.<sup>248</sup> It may be noted that copies of permits for the exhumation of the bodies of Ricardo Arana and Luis Guadamuz on April 27, 1990 in the Jardín de Paz cemetery were included in the documentation presented to the IACtHR.<sup>249</sup> These papers also indicate that the date of death was December 22, 1989.<sup>250</sup>

184. *Azael Barcasnegras Caballero*, identified in Case No. 79, was an 18-year-old young man and Panamanian national.<sup>251</sup> According to the statement presented, on December 22, 1989, at 5:30 p.m., Azael left his home located in Panamá Viejo to go to a store when gunfire from US forces took him by surprise, and he was wounded by a shot coming from a small tank.<sup>252</sup> Two days later, on December 24, his family members found him at the morgue of Santo Tomás Hospital and he was buried in the mass grave at Jardín de Paz.<sup>253</sup>

185. *Augustus Arturo Willis Baker*, identified in Case No. 80, was a 33-year-old man and Panamanian national.<sup>254</sup> According to information presented, on December 22, 1989, he was in the "5 de Mayo" Square where "he was shot down by U.S. troops."<sup>255</sup>

186. According to his wife's account, on December 22, 1989, the victim, with his friend "Tito," Tito's 11-year-old brother, and two women, was heading back to his car which had run out of gas on the Brasil Highway, in a white Lada car belonging to Tito.<sup>256</sup> When they reached the corner of the "5 de Mayo" Square, U.S. soldiers shouted at them to stop but "when they did not stop immediately" the soldiers shot at the car.<sup>257</sup> The car "had all of its windows shattered, gunshot impacts could be seen through the doors, as though gunfire

<sup>245</sup> Statement referring to case No. 77. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991; Statement referring to case No. 98. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>246</sup> Statement referring to case No. 77. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991; Statement referring to case No. 98. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>247</sup> Statement referring to case No. 77. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991; Statement referring to case No. 98. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>248</sup> Case filed with the Second Superior Court of Justice, referring to case No. 77. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>249</sup> Disinterment Permit from the Ministry of Health issued on April 27, 1990, referring to case No. 77. Annex to the communication from the petitioning party received on August 5, 1994; and Disinterment Permit from the Ministry of Health issued on April 27, 1990, referring to case No. 98. Annex to the communication from the petitioning party received on August 5, 1994.

<sup>250</sup> Disinterment Permit from the Ministry of Health issued on April 27, 1990, referring to case No. 77. Annex to the communication from the petitioning party received on August 5, 1994; and Disinterment Permit from the Ministry of Health issued on April 27, 1990, referring to case No. 98. Annex to the communication from the petitioning party received on August 5, 1994.

<sup>251</sup> Statement referring to case No. 79. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>252</sup> Statement referring to case No. 79. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>253</sup> Statement referring to case No. 79. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>254</sup> Statement referring to case No. 80. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>255</sup> Statement referring to case No. 80. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>256</sup> Additional statement referring to case No. 80. Annex to the communication from the petitioning party received on August 5, 1994.

<sup>257</sup> Additional statement referring to case No. 80. Annex to the communication from the petitioning party received on August 5, 1994.

had been sprayed into it.”<sup>258</sup> The family did not find the body after looking for it “in the morgues of Santo Tomás Hospital, Gorgas Hospital, and the Social Security Administration Hospital.”<sup>259</sup>

187. According to the same account, the body was located five or six days later on the Howard army base and taken to a mass grave in the Jardín de Paz cemetery.<sup>260</sup> His mother and brother indicated that only when his remains were later exhumed was it possible to identify him, in a black bag identified as No. 028.<sup>261</sup>

188. *Ángel Benítez Córdoba*, identified in Case No. 82, was a 43-year-old man and a Panamanian national.<sup>262</sup> According to information presented, the family knows nothing about the circumstances of his death and report that he was located due to proceedings filed with the Prosecutor’s Office.<sup>263</sup> According to his death certificate, he was wounded by a gunshot in the area of Albrook on December 20, 1989.<sup>264</sup> His remains were found in the mass grave at Jardín de Paz. It is important to indicate that, according to information presented by the petitioning party, the State identified Mr. Ángel Benítez as a member of the Dignity Battalions and determined that his remains were recovered at “Commandant Headquarters” on December 20, 1989.<sup>265</sup>

189. *Yaneth Lisbet Castillo*, identified in Case No. 85, was a 26-year-old woman and Panamanian national.<sup>266</sup> According to the statement presented, on December 20, 1989, Yaneth Castillo was at home located in El Chorrillo, with her family when the invasion was launched. Around 1:30 a.m., witnesses recall that they heard an explosion inside the house and when they went looking for her, they found her on the floor “lifeless” with her son.<sup>267</sup> According to the death certificate presented, the cause of her death was “a traumatic brain injury from a gunshot wound.”<sup>268</sup>

190. According to information presented, the Second Senior District Attorney’s Office of the First Judicial District launched an investigation “of the causes of the homicide of Janeth Lisbeth Castillo,”<sup>269</sup> after the Third Municipal Ombudsman’s Office of Panama carried out a formal fact-finding examination of his body in the morgue of Santo Tomás Hospital on December 20, 1989<sup>270</sup> and, immediately thereafter, made efforts, without success, to find relatives or acquaintances for the purpose of identifying the body and obtaining information.<sup>271</sup> In the summary proceedings of the investigation, this authority concluded that the death “was a consequence of the tragic events occurring on December 19 and early morning of December 20 [...]” for which, it requested “a ruling of provisional dismissal.”<sup>272</sup>

<sup>258</sup> Additional statement referring to case No. 80. Annex to the communication from the petitioning party received on August 5, 1994.

<sup>259</sup> Additional statement referring to case No. 80. Annex to the communication from the petitioning party received on August 5, 1994.

<sup>260</sup> Additional statement referring to case No. 80. Annex to the communication from the petitioning party received on August 5, 1994.

<sup>261</sup> Additional statement referring to case No. 80. Annex to the communication from the petitioning party received on August 5, 1994.

<sup>262</sup> Statement referring to case No. 82. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>263</sup> Statement referring to case No. 82. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>264</sup> Death certificate referring to case No. 82. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>265</sup> Table of the sites for gathering and registering the names of the United States of America Government. Annex 5 del Commissioner’s Notebook of Petitioner’s Evidence on the Merits.

<sup>266</sup> Statement referring to case No. 85. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>267</sup> Statement referring to case No. 85. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>268</sup> Death certificate referring to case No. 85. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>269</sup> Summary proceedings to ascertain the causes of death in the Second Senior District Attorney’s Office of the First Judicial District of April 9, 1990, referring to case No. 85. Annex to the communication from the petitioning party received on August 5, 1994.

<sup>270</sup> Summary proceedings to ascertain the causes of death in the Second Senior District Attorney’s Office of the First Judicial District of April 9, 1990, referring to case No. 85. Annex to the communication from the petitioning party received on August 5, 1994.

<sup>271</sup> Hearing of the Second Superior Court of Justice on October 9, 1990, referring to case No. 85. Annex to the communication from the petitioning party received on August 5, 1994.

<sup>272</sup> Summary proceedings to ascertain the causes of death in the Second Senior District Attorney’s Office of the First Judicial District, referring to case No. 85. Annex to the communication from the petitioning party received on August 5, 1994.

191. As for the Second Superior Court of Justice, on October 9, 1990, it decided that “in view of the procedural reality and the absence of information, the Public Prosecution Service’s petition must be accepted with regard to closing the investigation with a provisional dismissal [...]. In its opinion, it was “almost certain that the death was due to the tragic events that occurred in the country as of midnight December 19 of last year.”<sup>273</sup>

192. *Roger Alexis Cedeño Hidalgo*, identified in Case No. 87, was a 28-year-old man and Panamanian national.<sup>274</sup> On December 20, 1989, he was in the vicinity of the Río Hato Army Base, when he was the victim of 21 gunshots and taken to Penonomé Hospital where he died.<sup>275</sup>

193. *Antonio Núñez Vargas*, identified in Case No. 88, was a 43-year-old man and Panamanian national living in the sector of San Miguelito at the time of the Panama invasion.<sup>276</sup> According to the statement made by his wife, on the night of December 19, 1989, he left his home heading for the Torrijos-Carter area to help his sick mother.<sup>277</sup> Because of his disappearance and after fruitless attempts to locate him, his wife obtained information from neighbors in the area, indicating that during the night he had been seen looking for refuge when shots coming from a helicopter caught him by surprise.<sup>278</sup> His remains were located in April 1990 during the exhumation of the mass grave at Jardín de Paz.<sup>279</sup> In the death certificate presented, the cause of death indicated is a gunshot wound occurring on December 20, 1989.<sup>280</sup>

194. *Luis Gilberto Sánchez*, identified in Case No. 90, was a 30-year-old Panamanian who lived in the area of San Miguelito.<sup>281</sup> To date, the family does not know the circumstances of his death. According to information presented, the family found out, on December 24, 1989, that Luis Sánchez had been found dead in the street.<sup>282</sup> According to the death certificate, he died on December 24 in the “Las Colinas” supermarket located in San Miguelito from a gunshot wound to his left hip.<sup>283</sup>

195. *Yesenia del Carmen Quintana Álvarez*, identified in Case No. 94, was a girl, 17 years old at the time of the incidents, and a Panamanian national.<sup>284</sup> On December 20, 1989, according to information presented, she left home located in San Miguel de Calidonia and never returned.<sup>285</sup> Her family was able to

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<sup>273</sup> Summary proceedings to ascertain the causes of death in the Second Senior District Attorney’s Office of the First Judicial District of April 9, 1990, referring to case No. 85. Annex to the communication from the petitioning party received on August 5, 1994.

<sup>274</sup> Statement referring to case No. 87. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>275</sup> Statement referring to case No. 87. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>276</sup> Statement referring to case No. 88. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>277</sup> Statement referring to case No. 88. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>278</sup> Statement referring to case No. 88. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>279</sup> Statement referring to case No. 88. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>280</sup> Death certificate referring to case No. 88. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>281</sup> Statement referring to case No. 90. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>282</sup> Statement referring to case No. 90. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>283</sup> Death certificate referring to case No. 90. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>284</sup> Statement referring to case No. 94. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>285</sup> Statement referring to case No. 94. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

identify her some time later owing to a photograph and then found out that she was in the mass grave at Jardín de Paz.<sup>286</sup> To date, they know nothing about the circumstances or the day of her death.<sup>287</sup>

196. *José Alberto Quetzada*, identified in Case No. 95, was a 50-year-old man and Panamanian national.<sup>288</sup> On the basis of the statement provided, José Quetzada, "concerned about the shootings, bombings, and bullets," went out to look for his son and did not come back.<sup>289</sup> Days later, his remains were found in the morgue of Santo Tomás Hospital with a gunshot wound to his left side and an amputated leg.<sup>290</sup> The death certificate presented indicates that he died in the same hospital as a result of a "septic shock and gunshot wound to his left side" on December 21 at 9:18 p.m.<sup>291</sup>

197. *Antonio Pérez Torres*, identified in Case No. 96, was a 39-year-old Panamanian.<sup>292</sup> On the basis of information presented, Mr. Antonio Pérez died on December 20, 1989 in Río Hato when he was heading for Agua Dulce.<sup>293</sup> After unsuccessful attempts to find him, he was later recognized by his partner, Ms. Juana Morillo, during the exhumation of the mass grave at Jardín de Paz on May 5, 1990.<sup>294</sup> To date, there is no information about the circumstances of his death. His death certificate indicates that the cause of death was a gunshot wound that occurred on December 22, 1989 in the area of Howard.<sup>295</sup>

198. *Joseph Frederick*, identified in Case No. 97, was a Panamanian man.<sup>296</sup> At 5:00 a.m. on December 20, 1989, according to the statement presented, he was heading back home with his neighbor Roberto Caijor when he was "shot down" by four persons dressed as civilians.<sup>297</sup> According to information included in the case file, his remains were found in the mass grave at Jardín de Paz.<sup>298</sup>

199. *Miguel Henríquez Castillo*, identified in Cases Nos. 11 and 99, was a 69-year-old Panamanian man.<sup>299</sup> According to information provided, at 1:00 a.m. on December 20, 1989, Miguel Henríquez, with Teofilin Vargas, left in a car heading for El Chorrillo to get his mother.<sup>300</sup> After passing by the Mercado de Abastos, U.S. soldiers "threw flares," the car doors were opened, and Mr. Henriquez stepped out of the vehicle while Mr.

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<sup>286</sup> Statement referring to case No. 94. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>287</sup> Statement referring to case No. 94. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>288</sup> Statement referring to case No. 95. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>289</sup> Statement referring to case No. 95. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>290</sup> Statement referring to case No. 95. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>291</sup> Death certificate referring to case No. 95. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>292</sup> Statement referring to case No. 96. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>293</sup> Statement referring to case No. 96. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>294</sup> Statement referring to case No. 96. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>295</sup> Death certificate referring to case No. 96. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>296</sup> Statement referring to case No. 97. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>297</sup> Statement referring to case No. 97. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>298</sup> Statement referring to case No. 97. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>299</sup> Statement referring to case No. 11. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990. Statement referring to case No. 99. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>300</sup> Statement referring to case No. 99. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

Vargas stayed inside hiding.<sup>301</sup> Mr. Vargas was detained and taken to Nuevo Emperador.<sup>302</sup> According to the statement presented, his remains appeared in the mass grave at Jardín de Paz on May 20, 1990, although to date there is no information about the circumstances of his death.<sup>303</sup> On the basis of information contained in his death certificate, he died from a gunshot wound on the day of his disappearance in an area known as Santa Rita.<sup>304</sup>

200. According to information presented, his wife Basilia Meléndez filed complaints for the disappearance of Miguel Henríquez Castillo with the National Human Rights Commission and with the Fourth Senior District Attorney's Office of the First Judicial District, on February 20<sup>305</sup> and April 4, 1990,<sup>306</sup> respectively. In the District Attorney's Office she insisted that her husband did not appear in any of the lists published by the Forensic Medicine Office of the Ministry of Education.<sup>307</sup>

201. *Luis Alberto Murillo Castillo*, identified in Case No. 102, was a 27-year-old man and Panamanian national living in Los Andes Villa Esperanza.<sup>308</sup> According to information provided, on December 24, 1989, Luis Murillo, with his stepmother Telma Yolanda González de Murillo, was heading toward the area of San Miguelito where his wife and children were staying since the day before after having evacuated their home because of a "bombing" alert.<sup>309</sup> In front of his stepmother and another witness, he was the victim of a gunshot to his left hip coming from small tanks in the area of Auto Motor, Villa Guadalupe San Miguelito.<sup>310</sup> His body was buried in the mass grave at Jardín de Paz.<sup>311</sup>

202. *Luis Alberto Quintero Sianca*, identified in Case No. 107, was a 20-year-old Panamanian national.<sup>312</sup> According to the statement presented, on December 22, 1989 in the afternoon, Luis Quintero was with his uncles on Peró Avenue, when the car in which they were traveling was hit by gunshots.<sup>313</sup> He was taken, already dead, to Santo Tomás Hospital, according to information provided. When his family sought to claim his remains on December 26 they were unable to do so because the remains had already been buried in the mass grave at Jardín de Paz on December 24.<sup>314</sup>

203. *José René Noriega Meléndez*, identified in Case No. 218, was a 39-year-old Panamanian man.<sup>315</sup> According to information presented, Mr. Noriega died on December 25, 1989 in the patio of his home located

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<sup>301</sup> Statement referring to case No. 99. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>302</sup> Statement referring to case No. 99. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>303</sup> Statement referring to case No. 11. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990.

<sup>304</sup> Death certificate referring to case No. 99. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>305</sup> Missing Persons Report filed with the National Human Rights Commission in Panama on February 20, 1990, referring to case No. 11. Annex to the communication from the petitioning party received on August 5, 1994.

<sup>306</sup> Missing Persons Report filed with the Fourth Senior District Attorney's Office of the First Judicial District on April 4, 1990, with reference to case No. 11. Annex to the communication from the petitioning party received on August 5, 1994.

<sup>307</sup> Missing Persons Report filed with the Fourth Senior District Attorney's Office of the First Judicial District on April 4, 1990, with reference to case No. 11. Annex to the communication from the petitioning party received on August 5, 1994.

<sup>308</sup> Statement referring to case No. 102. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>309</sup> Statement referring to case No. 102. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>310</sup> Statement referring to case No. 102. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>311</sup> Statement referring to case No. 102. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>312</sup> Statement referring to case No. 107. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>313</sup> Statement referring to case No. 107. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>314</sup> Statement referring to case No. 107. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>315</sup> Statement referring to case No. 218. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

in Panama City, in the Corregimiento of Juan Díaz, as the result of a shattered skull.<sup>316</sup> According to his death certificate, his case was being investigated.<sup>317</sup> As for his wife, Vielka Bellido, she stated, without any further details, that her children lost their father because they killed him."<sup>318</sup>

204. *Carlos Ariel Rivera*, identified in Case No. 221, was a young 23-year-old Panamanian who was identified as an agent of the Panamanian Defense Forces.<sup>319</sup> To date his family knows nothing about the circumstances of his death, and the only information they have is based on statements by friends of Carlos Rivera, who was last seen leaving a hiding place when "a burst of gunfire" was heard.<sup>320</sup> After fruitless attempts to find him, his family members were informed that his remains were found in the mass grave at Jardín de Paz.<sup>321</sup> According to the death certificate presented, Carlos Rivera died from a gunshot wound on December 20, 1989 in the area of Amador.<sup>322</sup>

205. *María Bernuil Murillo de Rodríguez*, identified in Case No. 268, was a 35-year-old woman and a Panamanian national.<sup>323</sup> According to the statement that was presented, on December 20, 1989, María Bernuil Murillo died at 1 a.m. in her home located in the Belisario Porras district of San Miguelito, because of an acute myocardial infarct "from the effects of the bombing in Tinajita."<sup>324</sup>

## 2. Missing Persons

206. The IACtHR presents below the available information on missing persons in the light of statements made by their family members. In particular, the Commission indicates that, of the 272 petitions received, 4 of them concerns persons who, in the framework of the facts of the case and according to available information, went missing and for whom, to date, there is no clear information concerning their situation or whereabouts.

207. *Omar Evertto Martínez González*, identified in Case No. 72, was a 47-year-old man and Panamanian national.<sup>325</sup> According to information presented, in the early morning of December 20, 1989, he was in the shop "El Joice" with his neighbor Daniel Ortiz when he decided to head back home in the vicinity of the Central Headquarters in El Chorrillo, to look for "a lock."<sup>326</sup> While he was inside his house, according to statements made, helicopters dropped "bombs on the Central Headquarters of the Defense Forces" and one shell fell on his house. Following this, a fire started in which the property was destroyed.<sup>327</sup>

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<sup>316</sup> Death certificate referring to case No. 218. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>317</sup> Death certificate referring to case No. 218. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>318</sup> Statement referring to case No. 218. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>319</sup> Statement referring to case No. 221. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>320</sup> Statement referring to case No. 221. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>321</sup> Statement referring to case No. 221. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>322</sup> Death certificate referring to case No. 221. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>323</sup> Statement referring to case No. 268. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>324</sup> Statement referring to case No. 268. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>325</sup> Statement referring to case No. 72. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>326</sup> Statement made at the Third Senior District Attorney's Office of the First Judicial District referring to case No. 72. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>327</sup> Statement made at the Third Senior District Attorney's Office of the First Judicial District referring to case No. 72. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

208. According to information presented by his brother Fabio Martínez, the remains of Omar Martínez could not be retrieved because of restrictions on access to certain areas imposed by U.S. soldiers.<sup>328</sup> Days later, when access was granted to them, the body could not be found because, according to Mr. Martínez, “the Americans had already burned 36 bodies,” had put them into black bags, and taken them to “the sea.”<sup>329</sup> To date, his remains have not been found.

209. According to testimony given at the Third Senior District Attorney’s Office of the First Judicial District, witnesses stated that he had been shot and could not escape because of his injury and died inside his house.<sup>330</sup> They added that they saw how “days later they were picking up bodies in El Chorrillo and throwing them into plastic bags.”<sup>331</sup>

210. *Manuel Carol*, identified in Case No. 84, was a 32-year-old Panamanian.<sup>332</sup> According to the statement made, Manuel left to “defend his country” heading toward El Chorrillo, when a “small tank crashed into his car, leaving him dead and bloodied.”<sup>333</sup> The information presented indicates that, after this point, there was no further information about him, his car, or his belongings.<sup>334</sup> Because it was impossible to retrieve his remains despite the witnesses who were found, the petitioner assumes his remains were incinerated.<sup>335</sup>

211. *Marta Morán*, identified in Case No. 127, was a 68-year-old woman and Panamanian national living in El Chorrillo.<sup>336</sup> According to information provided, on December 20, 1989, around midnight she was sleeping at home along with her family when U.S. troops caught them by surprise “with a hail of gunfire, bombs, and laser-beam weapons of war.”<sup>337</sup> After waiting for two hours for the chance of a cease-fire in order to find a safer shelter, she left her house with her family and other neighbors. Nevertheless when “fresh gunfire took place,”<sup>338</sup> the group was dispersed and Mrs. Moran could not be located.<sup>339</sup> To date, her family knows nothing of her whereabouts or fate.

### 3. Persons who Suffered Physical and/or Psychological Harm<sup>340</sup>

212. Regarding the group of alleged victims who describe violations of their right to personal integrity, the IACHR presents available information about the persons who sustained injuries in light of the statements made by their family members or by them personally, grouping them into those affected in terms of their physical integrity, psychological and emotional integrity, and those affected by other forms of intimidation. The Commission notes that it has confirmed that, of the 272 petitions received, 24 of them involve

<sup>328</sup> Statement referring to case No. 72. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>329</sup> Statement referring to case No. 72. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>330</sup> Statement made at the Third Senior District Attorney’s Office of the First Judicial District referring to case No. 72. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>331</sup> Statement made at the Third Senior District Attorney’s Office of the First Judicial District referring to case No. 72. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>332</sup> Statement referring to case No. 84. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>333</sup> Statement referring to case No. 84. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>334</sup> Statement referring to case No. 84. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>335</sup> Statement referring to case No. 84. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>336</sup> Statement referring to case No. 127. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>337</sup> Statement referring to case No. 127. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>338</sup> Statement referring to case No. 127. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>339</sup> Statement referring to case No. 127. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>340</sup> Annex 1. List of persons identified in the present case as those who lost their life or were injured and their respective nuclear family.

persons who sustained physical injuries, 78 involve persons who sustained psychological or emotional harm, and 7 are related to persons who report other forms of intimidation.

### **3.1 Physical Integrity**

#### **3.1.1 Injuries from Explosive Weapons**

213. *Edilsa Alarcón Meneses, Claudio Salas Meneses, and Rufino Meneses*, identified in Case No. 1, were Panamanian nationals and relatives of Dionisia Meneses identified in the chapter on people who were killed.<sup>341</sup> As described earlier, at around 1:30 in the afternoon on December 22, 1989, one of the missiles fired by a U.S. helicopter at the “15 Piso” Building, landed on the house of the Salas Meneses family in the city of Colón and exploded.<sup>342</sup> Among the consequences of the impact, Edilsa Alarcón’s right breast was injured,<sup>343</sup> Claudio Salas was injured by shrapnel<sup>344</sup> to his arms, legs, back, and buttocks,<sup>345</sup> and Rufino Meneses sustained multiple serious injuries<sup>346</sup> to his back, arms, left leg, and face.<sup>347</sup>

214. As specified in the text referring to Ms. Dionisia Meneses, these incidents were reported to the U.S. Army South Claims Department in Panama on the basis of a letter with a detailed report written by Dionisia Meneses’ husband, José Isabel Salas Galindo, on February 14, 1990.

215. *Eleuterio Lee, Luisa Alicia Cupas, and their children Yuvisol, Eleuterio, Jonny, and Isaac Lee Cupas*, identified in Case No. 2, were a Panamanian family living in the city of Colón.<sup>348</sup> At the time of the facts, Eleuterio Lee and Luisa were 27 and 23 years old, respectively, and their children were 6, 5, and 3 years old, and 4 months old, respectively.<sup>349</sup> According to information presented, on December 22, 1989, as a result of the impact of a missile on their home, the members of the family sustained injuries from shrapnel, and their home sustained significant damage as well.<sup>350</sup>

216. In that regard, Eleuterio Lee Senior sustained injuries to his feet<sup>351</sup> and Luisa Alicia sustained injuries everywhere on her body,<sup>352</sup> especially her chest, legs, and elbow, requiring 56 stitches, loss of the left arm’s tendon and treatments for her cubital nerve.<sup>353</sup> As for Yuvisol, he sustained multiple injuries from missile fragments to his body<sup>354</sup> and lost his eyesight in the left eye.<sup>355</sup> Eleuterio the son sustained an injury from

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<sup>341</sup> Statement referring to case No. 1. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990.

<sup>342</sup> Additional statement from José Salas Galindo of January 31, 1990 referring to case No. 1. Annex to the communication from the petitioning party received on August 5, 1994.

<sup>343</sup> Additional statement from Edilsa Alarcón Meneses of February 14, 1990 referring to case No. 1. Annex to the communication from the petitioning party received on August 5, 1994.

<sup>344</sup> Statement referring to case No. 1. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990; Record of hospital admission of Claudio Salas Meneses issued on June 26, 1990 by the Manuel Amador Hospital Complex. Annex to the communication from the petitioning party received on August 5, 1994.

<sup>345</sup> Additional statement from Claudio Salas Meneses of February 14, 1990 referring to case No. 1. Annex to the communication from the petitioning party received on August 5, 1994.

<sup>346</sup> Additional statement from José Salas Galindo of January 31, 1990 referring to case No. 1. Annex to the communication from the petitioning party received on August 5, 1994.

<sup>347</sup> Additional statement from Rufino Meneses of February 14, 1990 referring to case No. 1. Annex to the communication from the petitioning party received on August 5, 1994.

<sup>348</sup> Statement referring to case No. 2. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990.

<sup>349</sup> Statement referring to case No. 2. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990.

<sup>350</sup> Statement referring to case No. 2. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990.

<sup>351</sup> Statement referring to case No. 2. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990.

<sup>352</sup> Medical records of Luisa A. Lee issued by Gorgas Hospital on March 13, 1990, referring to case No. 2. Annex to the communication from the petitioning party received on August 5, 1994.

<sup>353</sup> Medical records of Luisa A. Lee issued by Gorgas Hospital on March 13, 1990, referring to case No. 2. Annex to the communication from the petitioning party received on August 5, 1994.

<sup>354</sup> Medical examinations referring to case No. 2. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990; Emergency Report on Yuvisol issued by the Social Security Hospital in December 1989 and Clinical Summary of the Adult and Mother-Child program issued by the Panama Health Center in May 1990. Annex to the communication from the petitioning party received on August 5, 1994.

<sup>355</sup> Medical report referring to case No. 2. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990.

shrapnel to his head, which led to intracranial hemorrhaging and prevented him from developing normally.<sup>356</sup> Jonny sustained injuries to the head and abdomen,<sup>357</sup> and finally Isaac had various parts of his body burned.<sup>358</sup>

217. According to information provided, they were seen that same day at the hospital in the area and then transferred to Gorgas Hospital<sup>359</sup> where, up to 1994, they continued to receive medical assistance.<sup>360</sup> Regarding this, it is important to note that, according to information provided, on January 11, 1994, Luisa Cupas de Lee was notified by the U.S. authorities of Gorgas Hospital that the medical services she and her children Yuvisol and Eleuterio were receiving “would [henceforth] be denied because of her participation in a press conference in Panama City on December 9, 1993 (...) as a petitioner (...) before the Inter-American Commission on Human Rights.”<sup>361</sup> Regarding this, the Center for Constitutional Rights indicated that Ms. Lee had not been able to secure another appointment and had not been able to gain access to her and her children’s medical records,<sup>362</sup> describing these actions as “tactics of intimidation and harassment.”<sup>363</sup>

218. The information presented indicates that on May 4, 1994, after negotiations between the Office of General MacCaffrey in Panama and the Center for Constitutional Rights, Major G.A. Crocker addressed a memorandum to the command of the “United States Army Medical Department Activities Panama,” whereby he authorized the medical care, with all expenses covered, for Luisa Lee and her two children Yuvisol and Eleuterio at Gorgas Hospital, including the granting of a prosthetic eye for Yuvisol Lee.<sup>364</sup>

219. *Unnamed son of Elida Betezan de Pacheco*, mentioned in Case No. 4, was 8 years old at the time of the facts and lived in the city of Colón.<sup>365</sup> According to the statement presented, on December 22, 1989, at 3:00 in the afternoon, the bombing of their building caught them by surprise and, as a result of this incident, one of Elida Betezan’s three children sustained a foot injury.<sup>366</sup>

220. *Alejandro Vivanco*, identified in Case No. 5, was, at the time of the facts, a 68-year-old Panamanian national.<sup>367</sup> According to his statement, on December 20, 1989, in addition to sustaining “damages to his house from external causes” he was the victim of buckshot all over his body.<sup>368</sup> He also indicated that “the authorities and Southern Command have refused to pay him for the damage caused and compensation.”<sup>369</sup>

221. *Luis Adolfo Guevara de la Torre*, identified in Case No. 7, was at the time of the facts a 19-year-old student and Panamanian national.<sup>370</sup> According to information presented, on December 20, 1989, while he was on the grounds of the Río Hato army base, he was injured by shrapnel to his body.<sup>371</sup> Luis Guevara sustained injuries to his left forearm, right knee, groin, thigh, and left foot.<sup>372</sup> As a result, as of February 1990,

<sup>356</sup> Medical report referring to case No. 2. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990.

<sup>357</sup> Statement referring to case No. 2. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990

<sup>358</sup> Statement referring to case No. 2. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990

<sup>359</sup> Medical records of Luisa A. Lee issued by Gorgas Hospital on March 13, 1990, referring to case No. 2. Annex to the communication from the petitioning party received on August 5, 1994.

<sup>360</sup> Medical records of Luisa A. Lee issued by Gorgas Hospital on March 13, 1990, referring to case No. 2. Annex to the communication from the petitioning party received on August 5, 1994.

<sup>361</sup> Note from the Center for Constitutional Rights protesting the decision taken by the hospital to terminate medical services of January 14, 1994, referring to case No. 2. Annex to the communication from the petitioning party received on August 5, 1994.

<sup>362</sup> Note from the Center for Constitutional Rights protesting the decision taken by the hospital to terminate medical services of January 14, 1994, referring to case No. 2. Annex to the communication from the petitioning party received on August 5, 1994.

<sup>363</sup> Note from the Center for Constitutional Rights protesting the decision taken by the hospital to terminate medical services of January 14, 1994, referring to case No. 2. Annex to the communication from the petitioning party received on August 5, 1994.

<sup>364</sup> Letter from Major Crocker addressed to USA MEDDAC Panama on Humanitarian Medical Treatment of May 4, 1994, referring to case No. 2. Annex to the communication from the petitioning party received on August 5, 1994.

<sup>365</sup> Statement referring to case No. 4. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990.

<sup>366</sup> Statement referring to case No. 4. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990.

<sup>367</sup> Statement referring to case No. 5. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990.

<sup>368</sup> Statement referring to case No. 5. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990.

<sup>369</sup> Statement referring to case No. 5. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990.

<sup>370</sup> Statement referring to case No. 7. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990.

<sup>371</sup> Statement referring to case No. 7. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990.

<sup>372</sup> Medical report issued by the Manuel Amador Hospital Complex on February 13, 1990, referring to case No. 7. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990; and Medical referral report issued on December 29, 1989 at

he was still receiving medical treatment and had limited functioning of his knee.<sup>373</sup> In his statement Luis Guevara indicated that he had filed a complaint with the Southern Command, but this authority did not accept responsibility.<sup>374</sup>

222. More specifically, according to his statement, he was then a student at the Tomás Herrera Military Institute, located in the Río Hato area and he was sleeping in his dorm in the early morning of December 20, 1989.<sup>375</sup> When explosions came "from U.S. armed forces, aircraft, and helicopters," the students and other persons who were in his dorm started to evacuate the premises.<sup>376</sup> Immediately thereafter, a sergeant indicated that they had no chance of staying alive in the area of the dorm and told him to head for the hills.<sup>377</sup> Major Porras, Sergeant Magallón, his classmates Eric Hing and Jonny Landero, and the base's painter started to run to the hills in the direction of Río Hato.<sup>378</sup> After various setbacks, including the death of Sergeant Magallón, helicopters flying very low, and a first bomb strike, when the three classmates were close to a gully, a second bomb fell very close to their location.<sup>379</sup> When he regained consciousness, Luis Guevara found that a tree had fallen over his legs and he had sustained injuries to his arm and hip.<sup>380</sup>

223. According to his account, his two classmates were also injured and kept crying out: "Don't kill us, we're students."<sup>381</sup> After travelling all night, the young men managed to reach, by horse and in a car of the IHRE, the hospital of the city of Penonomé around 9:20 a.m., where they were given medical care.<sup>382</sup>

224. *Carolina Ruiz Bonilla*, identified in Case No. 12, was an 11-year-old girl and Panamanian national living in the Corregimiento of Viejo Veranillo in Panama City.<sup>383</sup> According to the statement, on December 20, 1989, at 11:30 a.m., U.S. soldiers fired "three mortars" and one of them hit the patio of her house.<sup>384</sup> Carolina, who at the time was cleaning the patio, sustained a head injury from mortar fragments.<sup>385</sup>

225. On the basis of available information, as of 1994, Carolina had small scars and there were foreign metal bodies in her cranium.<sup>386</sup> In consequence, she was suffering from severe headaches and pain in her left eye.<sup>387</sup>

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the Aulino Tejeira Hospital, referring to case No. 7. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990.

<sup>373</sup> Medical report issued by the Manuel Amador Hospital Complex on February 13, 1990, referring to case No. 7. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990.

<sup>374</sup> Statement referring to case No. 7. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990.

<sup>375</sup> Statement of material and moral injury by Luis Adolfo Guevara de la Torre referring to case No. 7. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990.

<sup>376</sup> Statement of material and moral injury by Luis Adolfo Guevara de la Torre referring to case No. 7. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990.

<sup>377</sup> Statement of material and moral injury by Luis Adolfo Guevara de la Torre referring to case No. 7. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990.

<sup>378</sup> Statement of material and moral injury by Luis Adolfo Guevara de la Torre referring to case No. 7. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990.

<sup>379</sup> Statement of material and moral injury by Luis Adolfo Guevara de la Torre referring to case No. 7. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990.

<sup>380</sup> Statement of material and moral injury by Luis Adolfo Guevara de la Torre referring to case No. 7. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990.

<sup>381</sup> Statement of material and moral injury by Luis Adolfo Guevara de la Torre referring to case No. 7. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990.

<sup>382</sup> Statement of material and moral injury by Luis Adolfo Guevara de la Torre referring to case No. 7. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990.

<sup>383</sup> Statement referring to case No. 12. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990.

<sup>384</sup> Statement referring to case No. 12. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990.

<sup>385</sup> Statement referring to case No. 12. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990.

<sup>386</sup> Report of the X-ray Exam of the Head carried out by Dr. Alberto de Senas from the National Oncological Institute of the Social Security Administration in January 1994 referring to case No. 12. Annex to the communication from the petitioning party received on August 5, 1994.

<sup>387</sup> Letter from Ms. Bonilla of January 1994 referring to case No. 12. Annex to the communication from the petitioning party received on August 5, 1994.

226. *Yasahira Edith Carrera*, identified in Case No. 15, was a young Panamanian girl living in the Corregimiento of Viejo Veranillo.<sup>388</sup> On the morning of December 20, 1989, according to the statement, they were attacked in their home by mortars coming from U.S. troops.<sup>389</sup> Yasahira, who at the time was 14 years old, sustained injuries to her left leg and face due to fragments released from the mortars.<sup>390</sup> As of the time the petition was filed, she still had foreign bodies lodged in her leg.<sup>391</sup>

227. According to this statement, she was treated at the Social Security Administration Hospital and then moved to the Gorgas Hospital as her mother Rosa Valdés heard about the medical assistance that was being provided there.<sup>392</sup> On the premises, after providing her with pain medication, they informed her that "they were not taking care of Panamanian cases of any kind" and that the care provided to her daughter "must come from Panamanian physicians and hospitals."<sup>393</sup>

228. *Marlene Wanjura Alvio*, identified in Case No. 16, was a 28-year-old woman and Panamanian national, living in the Corregimiento of Viejo Veranillo and she worked as a manual laborer.<sup>394</sup> According to the statement, on December 20, 1989, between 10:30 and 11:00 a.m., "a mortar fell at the base of [her] parents' home" as a result of which she sustained an injury to her left hand.<sup>395</sup>

229. Marlene Wanjura Alveo had to receive medical care on multiple occasions because of her injury and the pain that it caused to her bones.<sup>396</sup> On that same day, December 20, they removed the fragment<sup>397</sup> and, on January 4, 1990, she was operated on for the placement of micro-screws.<sup>398</sup> Although the screws were removed, she has not been able to work because of chronic pain and the lack of a prosthetic device.<sup>399</sup> In her statement, Ms. Wanjura points out that she went to the Southern Command Claims Office and Gorgas Hospital, which is under U.S. administration, and in both places "they refused to help her."<sup>400</sup>

230. In the framework of these circumstances, authorities of the Americas Institute College, where she worked,<sup>401</sup> refused "to sign her on as a person with a disability" and she was therefore forced to go to the Ministry of Education.<sup>402</sup> Marlene Wanjura was accused of being a member of the Dignity Battalions and was dismissed from her job without receiving any payment for "her disabilities."<sup>403</sup>

231. *Andreita Núñez*, identified in Case No. 17, was a Panamanian woman living at the time of the facts in the Corregimiento of Viejo Veranillo.<sup>404</sup> According to the statement presented, on December 20, 1989,

<sup>388</sup> Statement referring to case No. 15. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990.

<sup>389</sup> Statement referring to case No. 15. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990.

<sup>390</sup> Statement referring to case No. 15. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990.

<sup>391</sup> Statement referring to case No. 15. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990.

<sup>392</sup> Statement referring to case No. 15. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990.

<sup>393</sup> Statement referring to case No. 15. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990.

<sup>394</sup> Statement referring to case No. 16. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990; and Additional statement from Marlene Wanjura Alvio of January 26, 1994 referring to case No. 16. Annex to the communication from the petitioning party received on August 5, 1994.

<sup>395</sup> Statement referring to case No. 16. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990.

<sup>396</sup> Statement referring to case No. 16. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990.

<sup>397</sup> Additional statement from Marlene Wanjura Alvio of January 26, 1994 referring to case No. 16. Annex to the communication from the petitioning party received on August 5, 1994; and Report in the Memorandum from the Social Security Administration of December 1990 referring to case No. 16. Annex to the communication from the petitioning party received on August 5, 1994.

<sup>398</sup> Additional statement from Marlene Wanjura Alvio of January 26, 1994 referring to case No. 16. Annex to the communication from the petitioning party received on August 5, 1994.

<sup>399</sup> Additional statement from Marlene Wanjura Alvio of January 26, 1994 referring to case No. 16. Annex to the communication from the petitioning party received on August 5, 1994; and Memorandum from the Social Security Administration of May 28, 1991 referring to case No. 16. Annex to the communication from the petitioning party received on August 5, 1994.

<sup>400</sup> Statement referring to case No. 16. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990.

<sup>401</sup> Letter of appointment for Ms. Wanjura Alvio as a laborer at the Instituto América of July 27, 1989, referring to case No. 16. Annex to the communication from the petitioning party received on August 5, 1994.

<sup>402</sup> Additional statement from Marlene Wanjura Alvio of January 26, 1994 referring to case No. 16. Annex to the communication from the petitioning party received on August 5, 1994.

<sup>403</sup> Additional statement from Marlene Wanjura Alvio of January 26, 1994 referring to case No. 16. Annex to the communication from the petitioning party received on August 5, 1994.

<sup>404</sup> Statement referring to case No. 17. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990.

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at 9:30 a.m., her home was bombed “because of the invasion of the United States armed forces.”<sup>405</sup> Because of “the explosion of a mortar” she was injured on the right side of her body and lost her memory.<sup>406</sup> She reported that she could not eat for a week and lost her job because of the injuries.<sup>407</sup>

232. *Ángel Antonio Alonso Cubilla and his son Ángel Antonio Alonso Corro*, identified in Case No. 19, were father and son and Panamanian nationals living at the time of the facts in the area of Los Andes in San Miguelito.<sup>408</sup> At that time, Ángel Alonso Cubilla was 41 years old and his son was 14 years old.<sup>409</sup> According to information presented, on December 20, 1989, while various artillery helicopters were flying over “a bomb was dropped” on their house.<sup>410</sup> In the context of this incident, in addition to the damage to their house, both of them sustained multiple injuries.<sup>411</sup> Ángel Alonso Corro was injured in the right forearm and right thigh, whereas his father Ángel Alonso Cubilla sustained cuts to his thigh and tendons, and “had his arm disabled.” The arm became deformed and left him with pain in his wrist.<sup>412</sup>

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<sup>405</sup> Statement referring to case No. 17. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990.

<sup>406</sup> Statement referring to case No. 17. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990.

<sup>407</sup> Statement referring to case No. 17. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990

<sup>408</sup> Statement referring to case No. 19. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990.

<sup>409</sup> Statement referring to case No. 19. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990.

<sup>410</sup> Statement referring to case No. 19. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990.

<sup>411</sup> Statement referring to case No. 19. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990.

<sup>412</sup> Statement referring to case No. 19. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990.

### 3.1.2 Injuries from Firearms

233. *Ariel Caballero Rodríguez*, identified in Case No. 83, was at the time of the facts a 22-year-old man and Panamanian national.<sup>413</sup> According to the statement presented, on an unspecified day, he was in the neighborhood of Los Andes de San Miguelito with his son watching small U.S. tanks roll by.<sup>414</sup> When the last tank passed by, there was a “burst of gunshots,” and both Mr. Ariel Caballero and his son were injured.<sup>415</sup>

234. According to available information, Ariel Caballero received a heavy gunshot wound to his left leg and exposed fractures to his foot.<sup>416</sup>

235. *Gilberto Antonio Rivera Rangel*, identified in Case No. 91, was at the time of the facts 26-year-old man and Panamanian national living in El Chorrillo.<sup>417</sup> On December 20, 1989, close to one o’clock in the morning, the invasion caught him by surprise, and he sustained an injury to his leg.<sup>418</sup> According to information provided, a U.S. soldier told him to leave, and when he turned around he felt the impact of the bullet to his right leg.<sup>419</sup> He indicated that a woman then helped him with a tourniquet and, at 10 a.m. on that same day, December 20, at Gorgas Hospital, personnel refused to give him medical care because they alleged that he was a member of the CODEPADI or Defenses Forces.<sup>420</sup> According to the medical record presented, he was treated on December 20 for a gunshot wound to his right leg, leading to a fracture, loss of tissue, and a diagnosis of “compartment syndrome.”<sup>421</sup>

236. *Juan Castillo*, identified in Case No. 103, was at the time of the facts a 30-year-old man and Panamanian national.<sup>422</sup> According to the statement, on December 22, 1989, he left in his car with his brother-in-law Ariel González to take the latter for reincorporation into the police force in response to the call that had been made by the government.<sup>423</sup> When they arrived at the old road in Ancón, a shootout started with indiscriminate shooting, as a result of which many civilians, including them, sustained injuries.<sup>424</sup> According to information presented, he was treated for multiple gunshot wounds to his foot, left leg, and the left side of his head.<sup>425</sup> The injuries involved a “partial sensory and motor injury to his left external popliteal sciatic nerve.”<sup>426</sup>

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<sup>413</sup> Statement referring to case No. 83. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991; and Medical treatment report of December 10, 1990 issued by Dr. Eduardo Cotes of the Dr. Arnulfo Arias Madrid Metropolitan Hospital Complex, referring to case No. 83. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>414</sup> Statement referring to case No. 83. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>415</sup> Statement referring to case No. 83. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>416</sup> Medical treatment report in the orthopedic service of December 11, 1990 of the Dr. Arnulfo Arias Madrid Metropolitan Hospital Complex, referring to Case 83. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>417</sup> Statement referring to case No. 91. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>418</sup> Statement referring to case No. 91. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>419</sup> Statement referring to case No. 91. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>420</sup> Statement referring to case No. 91. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>421</sup> Medical treatment report of December 20, 1989 issued by Gorgas Hospital, referring to case No. 91. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>422</sup> Statement referring to case No. 103. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>423</sup> Statement referring to case No. 103. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>424</sup> Statement referring to case No. 103. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>425</sup> Letter from Marieta de Castillo addressed to the General Manager of the company “Ricardo Pérez A. y Compañías Afiliadas” of December 26, 1989, referring to case No. 103. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>426</sup> Medical exam carried out on January 4, 1990 by Dr. Ezequiel Jethmal, Clinical Neurophysiology Medical Office, referring to case No. 103. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

237. *Edgardo Henri González Armuelles, Judith González, and Xiomara Escudero de González*, identified in Cases Nos. 104, 105, and 106, respectively, were a family of Panamanians living in the Corregimiento of “Santa Ana” in Panama City.<sup>427</sup> At the time of the incidents, Edgardo and his wife Xiomara were both 26 years old,<sup>428</sup> and their daughter Judith was 2 years, 7 months old.<sup>429</sup> According to the information provided, in the early morning of December 20, 1989, they sustained gunshot wounds while they were in their car in Río Hato in the vicinity of the airport.<sup>430</sup>

238. Specifically, Edgardo González, Xiomara Escudero, and their daughter Judith González were traveling in their car with three other persons, going from the province of Varaguas Santiago to Panama City, when at the location of the Río Hato Highway gunshots caught them by surprise, and this made them “stop the car dead in its tracks.”<sup>431</sup> Immediately thereafter, Edgardo González called for help in English and “5 or more soldiers came out aiming their machine guns at them.”<sup>432</sup> These soldiers handcuffed Edgardo and the two other men and made them lie down on the edge of the highway.<sup>433</sup> They were treated by a paramedic, transferred in stretchers in a jeep and aircraft to a tent with more injured persons until they were able to take them to Gorgas Hospital.<sup>434</sup>

239. According to the account provided, the first shots wounded Ms. Xiomara and her daughter Judith.<sup>435</sup> As for Edgardo González, he received gunshot wounds to his right shoulder and to the kneecap and thigh of his right leg,<sup>436</sup> in addition to sustaining injuries from pieces of glass to his head.<sup>437</sup> Judith sustained injuries to her left forearm and shoulder, had a broken middle finger on her right hand,<sup>438</sup> and was treated for lacerations and burns.<sup>439</sup> Xiomara Escudero sustained injuries from shrapnel and bullets to her right breast, abdomen, belly, right arm, and both legs.<sup>440</sup>

240. *Nora Edith Batista*, identified in Case No. 215, was a 24-year-old woman and Panamanian national who lived in El Chorrillo.<sup>441</sup> According to information presented, on December 23, 1989, while she was

<sup>427</sup> Statement referring to case No. 104. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>428</sup> Statement referring to case No. 104. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991; and Statement referring to case No. 106. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>429</sup> Statement referring to case No. 105. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>430</sup> Statement referring to case No. 104. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991; and Statement referring to case No. 106. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>431</sup> Statement referring to case No. 104. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>432</sup> Statement referring to case No. 106. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>433</sup> Statement referring to case No. 106. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>434</sup> Statement referring to case No. 106. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>435</sup> Statement referring to case No. 104. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>436</sup> Record of Hospital Treatment at Gorgas Hospital of December 20, 1989, referring to case No. 104. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>437</sup> Statement referring to case No. 104. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>438</sup> Record of Hospital Treatment at Gorgas Hospital of December 20, 1989, referring to case No. 105. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>439</sup> Record of Hospital Treatment at Gorgas Hospital of December 20, 1989, referring to case No. 105. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>440</sup> Statement referring to case No. 106. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991; and Record of Hospital Treatment at Gorgas Hospital of December 20, 1989, referring to case No. 106. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>441</sup> Statement referring to case No. 215. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

looking for shelter with her two children, she was hit by a bullet to her left thigh.<sup>442</sup> Consequently, Nora Batista was treated at San Fernando Hospital.<sup>443</sup> It is important to note that, although the IACtHR does not have specific information to clarify precisely what this means, this victim reported that, during the incidents that took place and in a context of hysterics, "she lost a daughter."<sup>444</sup>

241. Ms. Nora Batista filed a request for compensation with the Ministry of Housing and USAID,<sup>445</sup> but there is no indication that received any response.

242. *Iris Pineda H, Luzdenia González, Santiago Pineda, Sabino S. Pineda, and Jaime A. González*, identified in Case No. 225, were members of a family living in the San Miguelito Sector of Panama City.<sup>446</sup> At the time of the facts, Iris Pineda was 32 years old, whereas Luzdenia González, Santiago Pineda, Jaime González, and Sabino S. Pineda were 14, 29, 9, and 65 years old, respectively.

243. According to the statement made by Ms. Iris Pineda, at 7:30 a.m., on December 20, 1989, a bomb fell on her home, when various members of her family were there, Luzdenia González, Santiago Pineda, Sabino S. Pineda, and Jaime A. González sustained injuries and the house showed visible damage.<sup>447</sup> In particular, Luzdenia sustained a gunshot wound to her left arm and had an exposed fracture.<sup>448</sup> Santiago Pineda had "slight bleeding of his left wrist and leg," and a "laceration to his head," which according to the medical records were caused by shrapnel.<sup>449</sup> Jaime González sustained multiple gunshot wounds to his left thigh and, as for S. Pineda, he sustained "gunshot wounds to his chest, left arm and leg, and to his groin."<sup>450</sup>

244. *Alexis Gilberto Ortega*, identified in Case No. 271, was a 16-year-old Panamanian youth at the time of the facts.<sup>451</sup> According to the statement presented, on December 22, 1989, neighbors went out into the streets of Panama City "to greet the Americans who were passing in their small tanks."<sup>452</sup> When the last tank passed, it "opened fire" against those present, leaving several persons injured including him and his father.<sup>453</sup>

245. On the basis of information available in the case file, it was confirmed that the young man was admitted to the Emergency Room with a gunshot wound to his left elbow. The medical report confirms that Alexis Ortega presented with an "exposed fracture with loss of tissue and with metal fragments"<sup>454</sup> because of which he was operated on and pins were inserted to treat the injury.<sup>455</sup>

<sup>442</sup> Statement referring to case No. 215. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>443</sup> Statement referring to case No. 215. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>444</sup> Statement referring to case No. 215. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>445</sup> Statement referring to case No. 215. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>446</sup> Statement referring to case No. 225. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>447</sup> Statement referring to case No. 225. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>448</sup> Medical Record issued by the Social Security Administration of December 20, 1989, referring to case No. 225. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>449</sup> Medical Record issued by the Social Security Administration of December 20, 1989, referring to case No. 225. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>450</sup> Medical Record issued by the Social Security Administration of December 20, 1989, referring to case No. 225. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>451</sup> Statement referring to case No. 271. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>452</sup> Statement referring to case No. 271. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>453</sup> Statement referring to case No. 271. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>454</sup> Medical Record from the Orthopedic Service issued on December 21, 1990 by the Dr. Arnulfo Arias Madrid Metropolitan Hospital Complex, referring to case No. 271. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>455</sup> Medical Record from the Orthopedic Service issued on December 21, 1990 by the Dr. Arnulfo Arias Madrid Metropolitan Hospital Complex. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

### 3.1.3 Injuries in the Context of other Circumstances

246. *Guillermo Antonio González*, identified in Case No. 62, was a 14-year-old Panamanian youth.<sup>456</sup> According to the information provided, on December 21, 1989, he left his home to buy bread for breakfast in El Chorrillo, when in the middle of a crowd in front of the Venezuela School he was pushed and fell between an iron girder and the glass pane of a door.<sup>457</sup> As a result of his fall, he cut his leg in three places and had to be helped by “members of the Dignity Battalions,” his sister, and a woman. They picked him up and took him to Santo Tomás Hospital and Children’s Hospital.<sup>458</sup>

247. According to the statement presented, in this medical facility, they had to amputate his leg and as a result he uses crutches and needs an artificial leg.<sup>459</sup>

248. *Lidia Willis Bucknall*, identified in Case No. 186, was a 58-year-old Panamanian woman living in the Patio Pinel Building located in El Chorrillo.<sup>460</sup> According to her statement, as a result of the events of December 20, 1989, Ms. Willis suffered a high-risk aggravation of her heart condition, in particular because of her son’s death.<sup>461</sup> On the basis of information provided, Lidia Willis was hospitalized in the coronary care section of the intensive care unit on various occasions, including November 4, November 18, and December 11, 1990.<sup>462</sup>

249. Ms. Lidia Willis indicated that, on the basis of notes and signatures by all those impacted, she made information available to various authorities including: the U.S. Ambassador to Panama, Dean Hintan; the Director of USAID-Panama, Thomas W. Stukel; and OAS and UN representatives in Panama.<sup>463</sup>

250. *Luzmila Harding de Castillo*, identified in Case No. 210, was a 52-year-old woman and Panamanian national living in Patio Pinel.<sup>464</sup> According to her statement, just before one o’clock in the morning of December 20, 1989, her family woke up hearing explosions coming from Central Headquarters and La Modelo Prison.<sup>465</sup> As the bombing and gunfire continued, she sustained a burn to her hand.<sup>466</sup>

251. *Juvencio Guzmán de Valdés*, identified in Case No. 235, was a 60-year-old woman and Panamanian national.<sup>467</sup> According to the victim’s description, on December 20, 1989, there was a fire and looting in Panama City<sup>468</sup> in the context of which she sustained a direct injury to her left knee, foot, and big

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<sup>456</sup> Statement referring to case No. 62. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>457</sup> Statement referring to case No. 62. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>458</sup> Statement referring to case No. 62. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>459</sup> Statement referring to case No. 62. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>460</sup> Statement referring to case No. 186. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>461</sup> Statement referring to case No. 186. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991. Ms. Lidia Willis is acknowledged as the petitioner in Case No. 80 referring to Augustus Arturo Willis Baker.

<sup>462</sup> Statement referring to case No. 186. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991

<sup>463</sup> Statement referring to case No. 186. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>464</sup> Statement referring to case No. 210. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>465</sup> Statement referring to case No. 210. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>466</sup> Statement referring to case No. 210. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>467</sup> Statement referring to case No. 235. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>468</sup> Statement referring to case No. 235. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

toe.<sup>469</sup> According to available information, she later received medical treatment for acute pain and for difficulty walking,<sup>470</sup> because of which she had to undergo arthroscopic surgery to her knee in response to a diagnosis of a torn medial and lateral meniscus.<sup>471</sup>

252. According to the declaration on file, Ms. Juvencio Guzmán went to the Ministry of Housing, the Ministry of Commerce, and USAID.<sup>472</sup> The IACHR does not have information on what happened as a result.

### **3.2 Effects on Psychological Integrity**

253. In this regard, the Commission highlights the information presented by Physicians for Human Rights in its report in relation to Operation Just Cause.<sup>473</sup> In this regard, Physicians for Human Rights documented and analyzed how the "psychological trauma suffered by Panamanians who experienced combat and significant personal losses was an important part of the human cost of the invasion."<sup>474</sup> Their findings on depression, post-traumatic stress and other psychological symptoms in the evaluated civilians, led them to conclude that "the suffering was widespread among the more than 15,000 who lost homes or loved ones or who suffered serious injuries."<sup>475</sup>

254. Taking into consideration the psychological integrity of the victims in the present case, the Commission stresses that a large number of them specifically describe how they were affected during the first days of the military operation, including in some cases nervous breakdowns or anxiety attacks produced in relation to the explosion of bombs, gunfire, and the screams of other persons, especially during the events that took place at night. In view of the nature of the operations during the first days, a scenario of uncertainty and fear is evident in the statements and descriptions presented in the present case.

255. In this regard, the IACHR confirms that these victims, for the most part, are persons who were in the vicinity of sites that were of military importance, as strategic targets identified by U.S. armed forces, such as, for example, El Chorrillo and Colón.

256. Taking into account the context of the incidents, the IACHR considers that it was to be expected that persons would be psychologically affected, especially persons who were particularly vulnerable, due, for example to preexisting medical conditions, or to age – in the case of children or elderly persons. Of the alleged victims who mention this type of impacts, there are repeated descriptions of the impact on nerves,<sup>476</sup>

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<sup>469</sup> Medical Record of December 15, 1993 issued by Dr. Augusto A. Alvarado, specialist in orthopedics and traumatology, referring to case No. 235. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>470</sup> Medical Record of December 15, 1993 issued by Dr. Augusto A. Alvarado, specialist in orthopedics and traumatology, referring to case No. 235, referring to case No. 235. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>471</sup> Medical Record of December 15, 1993 issued by Dr. Augusto A. Alvarado, specialist in orthopedics and traumatology, referring to case No. 235, referring to case No. 235. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>472</sup> Statement referring to case No. 235. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>473</sup> Physicians for Human Rights. Operation Just Cause: The Human Cost of Military Action in Panama. October 1991.

<sup>474</sup> Physicians for Human Rights. Operation Just Cause: The Human Cost of Military Action in Panama. October 1991, p. 4.

<sup>475</sup> Physicians for Human Rights. Operation Just Cause: The Human Cost of Military Action in Panama. October 1991, p. 37.

<sup>476</sup> Elida Betezan de Pacheco, identified in Case No. 4, describes her children's anxiety; Ana Mercedes de Cuéllar and children, identified in Case No. 147; mother of Yadira A. Lezcano, identified in Case No. 170; family of Raúl Elías Acevedo, identified in Case No. 174; Vicente Gordones, Dolores Torres de Obando, and their children, identified in Case No. 176; wife of Jacinto Centella, identified in Case No. 182; three children of Domingo Romero Aranda, identified in Case No. 183; Lidia Willis Bucknall identified in Case No. 186; Ana de Freitas and children, identified in Case No. 191; children of Aurora Victoria Villareal identified, in Case No. 192; Carlos Navas Ospino, identified in Case No. 193; Hernán H. Martínez S., identified in Case No. 194; wife of César Vargas Melo, identified in Case No. 199; Clorinda E. González and family, identified in Case No. 207; Raiza Arosemena, identified in Case No. 209, who specified that, because of her nervous breakdown, she suffered a miscarriage; Federico Armien and his family, identified in Case No. 220; Funicia E. Anderson D., identified in Case No. 244; and the son of Dennis Alexis Navarro, identified in Case No. 248.

hysteria,<sup>477</sup> high blood pressure or hypertension,<sup>478</sup> psychological disorders,<sup>479</sup> emotional harm,<sup>480</sup> sleeplessness,<sup>481</sup> and what they term “post-invasion trauma.”<sup>482</sup>

257. In particular, certain individuals filed documentation showing a severe impact on their emotional well-being, for example, documentary evidence of medical treatment.<sup>483</sup> In that respect, certain alleged victims indicated physical affects as a consequence of the emotional damage caused, such as the impossibility of working. In this sense, Catalina Teresa Riquelme de Arana, mother of Ricardo Arana identified in Case No. 77, provided medical reports confirming that she had received treatment from early 1991 for depression owing to her son’s death,<sup>484</sup> because of which her health had worsened. Likewise, Víctor Inés Castilla, identified in Case No. 136, stressed that her mother’s health worsened because of the emotional and psychological damage she sustained from exploding bombs and aerial gunfire, which led to her death on April 26, 1990.<sup>485</sup>

### 3.3 Other Circumstances Affecting Physical and Psychological Integrity

258. In this section, the IACHR summarizes reports on forced entry into the homes of civilians for the purpose of carrying out searches, their forced eviction, and fires set by U.S. soldiers in their search for General Noriega. In this regard, a specific group of alleged victims coincide in reporting that, at 3 o’clock in the morning on December 23, 1989, soldiers broke into their homes, using smoke bombs, for the specific purpose of capturing General Noriega. In the framework of this search, unarmed, frightened, and confused civilians were subject to the soldiers’ control.

<sup>477</sup> Daughters of Luzmila Harding de Castillo, identified in Case No. 210; and family of Raúl Elías Acevedo, identified in Case No. 174.

<sup>478</sup> Adolfo Arturo Tello Bravo, identified in Case No. 42; Moises Erasmo Torreglosa, identified in Case No. 141, whose emotional health declined; wife of Gonzalo Castro Domínguez, identified in Case No. 178; René A. Cerrud, identified in Case No. 190; Hermelinda de Almanzar, identified in Case No. 195; and Pablo Emilio Pérez Fajardo identified in Case No. 212.

<sup>479</sup> Yazmira de Crespo, identified in Case No. 148; Luis Carlos Montes and his family member, especially his children, identified in Case No. 187; Ernesto Rodríguez and wife, identified in Case No. 196; and Pablo Emilio Pérez Fajardo, identified in Case No. 212.

<sup>480</sup> Jovima Pacheco de Edwards, identified in Case No. 118; Xiomara S. de Allonca, identified in Case No. 119; Vidal Coronado, identified in Case No. 120; Zoraida Arosemena de González, identified in Case No. 121; Fabio Ernesto Crosthwaite, identified in Case No. 122; Elisa de Flórez, identified in Case No. 123; Areccelly García, identified in Case No. 124; Justo Pastor Acuña, identified in Case No. 125; Emelina Martínez and her family members, identified in Case No. 126; Jiri, Patricia and Jorge Hess Rodríguez, children of Victoria Rodríguez, identified in Case No. 133; son of M.C.G., identified in Case No. 134; daughters of Eva Inés Castilla, identified in Case No. 135; family members who lived with Víctor Inés Castilla, mentioned in Case No. 136; son of Magdalena de Morales, who was 16 years old at the time of the incidents, mentioned in Case No. 142; children of Elena Yaneth de Silvera, mentioned in Case No. 143; wife and grandson of Luis Anel Durán Vásquez, mentioned in Case No. 150; Urcinnio Rivera Bodera, identified in Case No. 151; Lorenzo Bethancourt and family members, identified in Case No. 152, especially the children, who at the time were four and two years old, and her daughter who suffered pregnancy-related complications and had a miscarriage; Rebeca Esilda Meléndez and her family members, identified in Case No. 154; Teresa M. de Navarro and her family members, identified in Case No. 155; Eneida Elvira Palma Sánchez and family members, identified in Case No. 156; Fernando Vergara, identified in Case No. 157; two children of Fulvia Elena Castro Cupas, identified in Case No. 158; Lucía García Bell, identified in Case No. 159; Virgilio Sánchez and María de la Cruz Polanco, identified in Case No. 160; Sandra Mudarra, identified in Case No. 161; Sara Judith Batista de Herrera, identified in Case No. 162; Georgina Yearwood Smith, identified in Case No. 163; Gloria S. Jaén V., identified in Case No. 164; Alcides Bernal López, identified in Case No. 165; Gilma Sánchez de De la Cruz, identified in Case No. 166; Olmedo Oliveros, identified in Case No. 167; Arsenio Pérez de León and family members, identified in Case No. 168; Adelaida Hernández, identified in Case No. 169; Yadira A. Lezcano and family members, identified in Case No. 170; Antonia G. de Crespo, identified in Case No. 171; Jorge A. Cobos Morán, identified in Case No. 172; Franklin Loo de Gracia, identified in Case No. 173; Betsy Guevara de Martínez and Ana Martínez, identified in Case No. 177; Neira Estela Bethancourt, her two daughters and two grandchildren, identified in Case No. 180; Sons of Casimiro Bultrón Alba, identified in Case No. 181; Julio César González, Raúl Iván González and Josué González, identified in Case No. 185; wife, three children, and granddaughter of Gilberto Moreno Ponce, identified in Case No. 188; Rita Isabel Donayres W. and family members, identified in Case No. 204; Andrea L. de Arosemena, identified in Case No. 205; Manuel Martínez Gutiérrez and family members, identified in Case No. 206; as well as Esteban Martínez U. and family members, identified in Case No. 214; Germán Avila Morón, wife and eight children, identified in Case No. 216.

<sup>481</sup> Didimo Batista, identified in Case No. 198.

<sup>482</sup> Aida Castillo de Cianca and her children, identified in Case No. 146.

<sup>483</sup> Lorenzo A. Atencio, identified in Case No. 179; Ismaelina Lucía Pérez, identified in Case No. 213, who suffered a “facial stroke”; Elena Zambrano de Pérez, identified in Case No. 189; René A. Cerrud, identified in Case No. 190; Ana de Freitas and son, identified in Case No. 191; Funcia E. Anderson D., identified in Case No. 244; as well as Yamileth and José René Noriega Bellido, identified in Case No. 218; who received psychiatric treatments.

<sup>484</sup> Medical Record issued in January 1994 by Dr. Miguel Cedeño, referring to case No. 77. Annex to the communication from the petitioning party received on August 5, 1994.

<sup>485</sup> Statement referring to case No. 136. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

259. *José Manuel Borbúa*, identified in Case No. 6, was a 23-year-old man and Panamanian national, living in the city of Colón.<sup>486</sup> According to the statement presented, at 3 o'clock in the morning on December 23, 1989, when he was at home with his wife and son, "armed soldiers arrived breaking down the doors and asking for General Noriega" and asking if they knew his whereabouts.<sup>487</sup> Moments later, while they ordered them to step out of their home with their hands up, the soldiers fired a bazooka, which according to the victim, set the house on fire.<sup>488</sup>

260. *Orlando Jaramillo*, identified in Case No. 18, was a 24-year-old man living in Colón.<sup>489</sup> According to information provided, at 3 o'clock in the morning on December 23, "U.S. troops" surrounded his house and entered looking for General Noriega.<sup>490</sup> While they were searching his home, the victim and his family were ordered to leave the premises with guns aimed at them.<sup>491</sup> Immediately thereafter, according to the account, when the soldiers saw the neighboring apartment was locked, they started shooting high-caliber weapons to unlock and search it.<sup>492</sup> They then heard multiple gunshots bombarding the front of the house, setting it on fire, at which time "the soldiers took them out of the house and left."<sup>493</sup>

261. *Flora de Machado*, identified in Case No. 27, was a 40-year-old woman.<sup>494</sup> According to her statement, on December 23, at 4:30 a.m., U.S. soldiers entered her home insisting "that Noriega was there."<sup>495</sup> Immediately thereafter, while they were searching her home, one soldier shot at one of the doors, which set a fire that burned the entire house down and completely destroyed her property.<sup>496</sup>

262. *Juan Bautista Mullings*, identified in Case No. 30, was a 26-year-old Panamanian who lived with his sister and nephew.<sup>497</sup> According to information presented, on December 23, 1989, at 3:30 in the morning, the door of his home "was violently forced open" and "various Americans asking for Noriega" entered.<sup>498</sup> Although he replied that Noriega was not there, the soldiers searched the house and ordered them to evacuate the place, telling them that there was a fire.<sup>499</sup>

263. *Lidia Ana Rowe*, identified in Case No. 33, was a 37-year-old Panamanian woman who, at the time of the facts, lived in the city of Colón with her two children.<sup>500</sup> As stated by Lidia Rowe, on December 23, 1989, at 3 o'clock in the morning, US soldiers broke two windows of her home throwing "smoke gas" inside and fired a bazooka, because of which, with her two children, she remained lying on the floor of her living room.<sup>501</sup> According to her statement, after hearing her neighbors and seeing them on the floor, she stepped out and was placed "against the wall" by the soldiers while they asked about Noriega's whereabouts.<sup>502</sup> At that time, she realized that her house was in flames.<sup>503</sup>

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<sup>486</sup> Statement referring to case No. 6. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990.

<sup>487</sup> Statement referring to case No. 6. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990.

<sup>488</sup> Statement referring to case No. 18. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990.

<sup>489</sup> Statement referring to case No. 18 Annex to the brief of additional information submitted by the petitioning party on June 29, 1990.

<sup>490</sup> Statement referring to case No. 18 Annex to the brief of additional information submitted by the petitioning party on June 29, 1990.

<sup>491</sup> Statement referring to case No. 18. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990.

<sup>492</sup> Statement referring to case No. 18. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990.

<sup>493</sup> Statement referring to case No. 18. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990.

<sup>494</sup> Statement referring to case No. 27. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990.

<sup>495</sup> Statement referring to case No. 27. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990.

<sup>496</sup> Statement referring to case No. 27. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990.

<sup>497</sup> Statement referring to case No. 30. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990.

<sup>498</sup> Statement referring to case No. 30. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990.

<sup>499</sup> Statement referring to case No. 30. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990.

<sup>500</sup> Statement referring to case No. 33. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990.

<sup>501</sup> Statement referring to case No. 33. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990.

<sup>502</sup> Statement referring to case No. 33. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990.

<sup>503</sup> Statement referring to case No. 33. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990.

264. *David Delgado*, identified in Case No. 47, was a 27-year-old man who, at the time, was with his 6 children.<sup>504</sup> According to the statement presented, on December 23, 1989, soldiers invaded his home, evicted him and his family, and “left them out in the street with nothing.”<sup>505</sup>

265. *Matilde Marcela Mitchell Barrios*, identified in Case No. 48, was a 26-year-old Panamanian woman with two children.<sup>506</sup> According to her statement, on December 23, in the early morning, “English-speaking soldiers broke down the door” although she had asked them to wait.<sup>507</sup> The soldiers threw a smoke bomb, fired a bazooka, and kept them in the house while it was going up in flames.<sup>508</sup>

#### **4. Persons Detained**

266. *Fabio Martínez*, identified in Case No. 269, was a Panamanian national.<sup>509</sup> According to information presented, on December 20, 1989, while he was at his workplace in a government institution, the Purification Plant of the National Aqueducts and Sewage System Institute, he was arrested along with other co-workers by the U.S. army.<sup>510</sup> The soldiers reportedly entered the Institute without any authorization, with “small war tanks and weaponry.”<sup>511</sup> The workers were transferred to the back part of the building where their belongings were taken from them and they were gagged and tied up by the US armed forces.<sup>512</sup> Mr. Fabio Martínez was released on December 24, 1989, and at the time of his statement, his belongings had not been returned to him, despite the requests he had filed with the Southern Command.<sup>513</sup>

#### **5. Damages to Private Property<sup>514</sup>**

267. Regarding the series of victims who described violations of their right to property, the IACtHR stresses that a large number of them specify that their property was affected as a result of the occupation and combat during the military operation’s first days. In that respect, the IACtHR highlights the large number of alleged victims who submitted information in connection with partial damage or total loss of their homes, work places, and/or motor vehicles as a result of bombings, fires, and/or looting of property.

268. Likewise, in addition to the persons whose homes were destroyed, many of the alleged victims in the present case reported that they were evicted from their homes by U.S. soldiers, in some instances minutes before the occupation and in most cases after the confrontations and bombings. In the cases where homes were not destroyed, the alleged victims explained that they were prohibited from returning to them for a given period of time.

269. As whole, this situation meant a large part of the civilian population was displaced to designated refugee centers, or other locations. Although, in various cases, it is not clear whether the alleged victims were owners or tenants of the impacted homes or work places, the victims explain the adverse effects that these events had on their living conditions. In that respect, they explain that, because of their impossibility to work and their displacement, the education and health of their children and families were also seriously affected.

<sup>504</sup> Statement referring to case No. 47. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990.

<sup>505</sup> Statement referring to case No. 47. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990.

<sup>506</sup> Statement referring to case No. 48. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990.

<sup>507</sup> Statement referring to case No. 48. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990.

<sup>508</sup> Statement referring to case No. 48. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990.

<sup>509</sup> Statement referring to case No. 269. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>510</sup> Statement referring to case No. 269. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>511</sup> Statement referring to case No. 269. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>512</sup> Statement referring to case No. 269. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>513</sup> Statement referring to case No. 269. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>514</sup> Annex 2. List of persons who reported damage to their property.

270. The victims indicated that they attempted to present, within the scope of their possibilities and with as much detail as possible, the property they had lost and its value. The IACtHR was apprised of this information on the basis of reports made by the victims themselves and/or accountants, which were submitted as attachments to their statements.

271. The UN Committee on Economic, Social and Cultural Rights (hereinafter the "ESCR Committee") recognized that the U.S. occupation of December 20, 1989 "triggered a severe economic and social crisis that had repercussions on all sectors of the economy and destroyed or damaged several hundred homes in two of the most densely population districts of the capital, aggravating even further the housing crisis."<sup>515</sup> In particular, the Committee emphasized that "about 20,000 persons" were impacted by the bombings and destructions or fires on the days following the occupation.<sup>516</sup>

272. As for the IACtHR, in the chapter referring to the human rights situation in Panama in its Annual Report 1990-1991, it indicated that it was apprised of the dislocation and subsequent transfer of displaced civilians to schools and afterwards to private housing on their own or in camps especially established for the purpose.<sup>517</sup> In that report, in reference to "the precarious situation of the refugees in the Albrook Camp and in other camps", the Commission pointed out, with great concern, that the situation of civilians whose lives had already been severely shaken by the bombing and armed combat, as well as the loss of family members and neighbors, as well as of their property, "was being further aggravated by the indefinite life of confinement, unemployment, and dependency in which they were living."<sup>518</sup>

273. Likewise, the Commission voiced its concern about the delays and complaints in connection with plans to relocate the affected families; that their new accommodations were far away from where they had lived; and the absence of guarantees that they would obtain "the limited amounts of money calculated as compensation in the agreement between the Government of Panama and the USAID of the U.S. Government."<sup>519</sup>

274. Regarding this matter, the UN ESCR Committee reported that the Government of Panama negotiated with the United States of America an award of funding to repair the damages caused by the military operations and, in 1990, two agreements were signed (525-0300 and 525-0302) as a result of which the United States provided assistance in the amount of 42,625,400 dollars.<sup>520</sup> For that plan, the Government of Panama had made a complementary contribution of 3,283,000 dollars. As for USAID, it had used its funds, in the amount of 1.9 million dollars, for maintenance work in the Albrook camp and other camps.<sup>521</sup> However, the ESCR Committee was unable to find out if the total amount allocated was actually distributed in its entirety and, if so, under what conditions.<sup>522</sup> The government of the United States in its observations emphasized its efforts to deliver aid packages to Panama. It does not indicate having paid economic reparations as such and maintains that it has no obligation to pay any such reparations.

<sup>515</sup> Committee on Economic, Social and Cultural Rights. Report on the technical assistance mission to Panama (16 to 22 April 1995). E/C.12/1995/8 of 20 June 1995, paragraph 21.

<sup>516</sup> Committee on Economic, Social and Cultural Rights. Report on the technical assistance mission to Panama (16 to 22 April 1995). E/C.12/1995/8 of 20 June 1995, paragraph 58.

<sup>517</sup> IACtHR. Annual Report 1990-1991. Chapter IV Situation of human rights in Panama. OEA/Ser.L/V/II.79.rev.1 Doc. 12 of February 22, 1991.

<sup>518</sup> IACtHR. Annual Report 1990-1991. Chapter IV Situation of human rights in Panama. OEA/Ser.L/V/II.79.rev.1 Doc. 12 of February 22, 1991.

<sup>519</sup> IACtHR. Annual Report 1990-1991. Chapter IV Chapter IV Situation of human rights in Panama. OEA/Ser.L/V/II.79.rev.1 Doc. 12 of February 22, 1991.

<sup>520</sup> Committee on Economic, Social and Cultural Rights. Report on the technical assistance mission to Panama (16 to 22 April 1995). E/C.12/1995/8 of 20 June 1995, paragraphs 61 and 62.

<sup>521</sup> Committee on Economic, Social and Cultural Rights. Report on the technical assistance mission to Panama (16 to 22 April 1995). E/C.12/1995/8 of 20 June 1995, paragraphs 61 and 62

<sup>522</sup> Committee on Economic, Social and Cultural Rights. Report on the technical assistance mission to Panama (16 to 22 April 1995). E/C.12/1995/8 of 20 June 1995, paragraph 65.

275. According to available information, various victims tried to secure compensation from the Southern Command or other local and national authorities, without success.<sup>523</sup> In that respect, only one petitioner recognizes that he received a house; nevertheless, he contended that, because of the loss of his business, this house was not enough compensation.<sup>524</sup>

276. Below, the Commission summarizes the available information concerning the situation of persons who were affected by a violation of their right to property in light of the statements that were provided, grouped by locality in the city of Colón and various areas of Panama City. Without detriment to having experienced other violations of their rights, certain victims described effects to their property because of the use or impact of explosives on their residences, such as mortars or bombs, on December 20, 1989 in various areas of Panama City, among which Viejo Veranillo,<sup>525</sup> the area known as Los Andes,<sup>526</sup> and San Miguelito.<sup>527</sup>

277. In particular, the Commission has verified that, out of the 272 petitions that comprise the present case, 152 involve persons who allege having suffered from some violation of their right to property. At the same time, the Commission notes that the question of economic impact is not limited to these 152 petitions. In each of the 272 petitions there are references to facts and effects, including due to the killing of victims or family members, or of serious injury, that necessarily involve an economic component.

### **5.1 Neighborhood of El Chorrillo**

278. First, it is important to highlight the declarations made by the IACtHR and the Economic, Social and Cultural Rights Committee in connection with the neighborhood of El Chorrillo as having been one of the areas that sustained the greatest impact and long term damage from the military operation.

279. In this regard, the Inter-American Commission specified how, although there were victims in various regions of the country, especially in the area of Colón, "complaints and information received indicate that the main area of destruction was the one surrounding the General Headquarters of the Defense Forces in the neighborhood of El Chorrillo in Panama City."<sup>528</sup>

280. As for the UN ESCR Committee, in its 1995 report, it took into account that various buildings in El Chorrillo were completely destroyed and severe damage persisted in other buildings including "water seepage, malfunctioning elevators, deterioration of sanitation facilities, damage to public use areas of the buildings, etc."<sup>529</sup> As for the relocation of displaced persons coming from this neighborhood, such as, for example, in the area of Santa Eduvigis, it added that, in addition to expressing complaints about the long distances from their workplaces and the expenses for transportation, they "felt isolated, in a neighborhood without any life, still unfinished and where there are problems in sewage and wastewater elimination, electric power supply, and communication services."<sup>530</sup>

<sup>523</sup> In particular, the victims identified in cases Nos. 1, 2, 5, 6, 7, 10, 16, 19, 21, 26, 33, 37, 47, 51, 59, 115, and 224 indicate that they went to the U.S. Army South Command Claims Department located in Panama. The victims identified in Cases Nos. 28, 29, 30, 34, 35, 40, 46, and 48 said they went to local and national authorities and South Command to look for assistance and compensation. A few identified in Cases Nos. 11, 18, and 27 only went to Panamanian authorities.

<sup>524</sup> Mariano Cianca Sánchez, identified in Case No. 245. See Statement referring to case No. 245. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>525</sup> María Tomasa Bonilla and Carolina Ruiz Bonilla, identified in Case No. 12; Camilo Zamora Hidalgo, identified in Case No. 13; and Andreita Núñez, identified in Case No. 17.

<sup>526</sup> Ángel Antonio Alonso Cubilla and his family members, Dalys Corro, Ángel Antonio Alonso Corro, and Albis Abdiel Alonso Corro, identified in Case No. 19; and Carlos Elías Rosas Pitti, identified in Case No. 21.

<sup>527</sup> Iris M. Pineda H. and family members, identified in Case No. 225.

<sup>528</sup> IACtHR. Annual Report 1990-1991. Chapter IV Situation of human rights in Panama. OEA/Ser.L/V/II.79.rev.1 Doc. 12 of February 22, 1991.

<sup>529</sup> Committee on Economic, Social and Cultural Rights. Report on the technical assistance mission to Panama (16 to 22 April 1995). E/C.12/1995/8 of 20 June 1995, paragraph. 58.

<sup>530</sup> Committee on Economic, Social and Cultural Rights. Report on the technical assistance mission to Panama (16 to 22 April 1995). E/C.12/1995/8 of 20 June 1995, paragraph 58.

281. The IACR has verified that the neighborhood of El Chorrillo was part of Panama City and was an area where there were businesses, the residences of a large number of civilians, and the Central Headquarters of the Defense Forces. In that area, the information in the case file is consistent in indicating that, the buildings were predominantly constructions made of wood.

282. Because of the military importance of the Central Headquarters of the Command Center, the neighborhood of El Chorrillo was the scene of heavy fighting and bombing on the night of December 19 to 20, 1989 between members of the Panamanian Defense Forces and the U.S. Armed Forces. In this regard, the U.S. Armed Forces used weapons, small tanks, helicopters, and aircraft. They also deployed paratroopers and used explosive weapons. The assault triggered widespread fear among the civilian population because a large number of them were caught by surprise at home and most civilians took shelter inside their homes or went outside in search of greater protection in public thoroughfares where the clashes were taking place.

283. As a result of various actions carried out during the night of December 19 to 20, a large scale fire broke out and caused heavy damage to a significant number of the buildings in the area, including homes, and businesses.<sup>531</sup> It also led to interruptions in access to public services such as water and electric power supply.

284. On the same day, December 20, and on the following days, individuals started looting homes and business that had been evacuated.<sup>532</sup> As a result, civilians lost belongings that were vital for their daily lives inside their homes.<sup>533</sup> The IACR does not have enough information to ascertain whether or to what extent members of United States forces may have participated in the looting. The Commission does take fully into account the number of denunciations that indicate with some consistency that US forces failed to take serious or adequate measures to prevent it.<sup>534</sup>

285. There are a number of denunciation that link the State to "cleansing activities" in El Chorrillo, where measures were taken to raze some of the affected buildings to the ground and remove the rubble. Regarding these descriptions, it was denounced that these measures were aimed at destroying and eliminating evidence of the lethal actions by U.S. soldiers, as well as concealing dead civilians.

286. The Commission notes that the disruption of the lives of residents of these specific areas was disrupted in multiple ways, and takes into particular account the deep impact this would have had for people living with limited material resources. Along these lines, a large number of alleged victims specified, in their complaints, that they lost all their food as a result of the power outages over five days. They emphasized as well that business came to a standstill owing to the military occupation and the U.S. Army's control over these areas.

287. As for the total destruction of, or partial damage to, households, certain persons reported this destruction and that of their belongings as a result of the impacts of explosives,<sup>535</sup> gunfire,<sup>536</sup> and fires breaking out.<sup>537</sup> At the same time, the IACR distinguishes the situation of several victims who, although they insist they lost all of their belongings or homes, do not provide a clear indication as to the cause of the damages.<sup>538</sup>

<sup>531</sup> Permanent Tribunal of the Peoples, Architectural Aspects on the effects of the invasion in the Barrio El Chorillo, January 8, 1991. Annex to the Commissioner's Notebook presented by the petitioner.

<sup>532</sup> Statement referring to case No. 141. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>533</sup> Eliécer Díaz Castillo, identified in Case No. 129; María del Carmen Guzmán, identified in Case No. 134; Elena V. de Escobar, identified in Case No. 140; Magdalena E. de Morales, identified in Case No. 142; Elena Yaneth de Silvera, identified in Case No. 143; Urcinnio Rivera Bodera, identified in Case No. 151; Yolanda Vega de Arosemena, identified in Case No. 153.

<sup>534</sup> Statement referring to case No. 242. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>535</sup> Enrique E. Guerrero, identified in Cases No. 108 and No. 223; Victoria Rodríguez Montalbo, identified in Case No. 133; Mariano Cianca Sánchez, identified in Case No. 245.

<sup>536</sup> Yolanda Vega de Arosemena, identified in Case No. 153.

<sup>537</sup> Demetrio López González, identified in Case No. 64.

<sup>538</sup> Esteban M. Martínez U., identified in Case No. 214; Funicia E. Anderson, identified in Case No. 244; and Hugo Varcasía Adames and Yolanda de Varcasía, identified in Case No. 246.

288. As indicated in the following section, the IACtHR has identified that a large number of the petitions filed in this case are from residents of the building complex Patio Pinel, located in El Chorrillo.

#### Building complex Patio Pinel

289. According to the accounts presented, the residents of these buildings describe similar events and damages. In that respect, on December 20, 1989, U.S. troops were there with small tanks, helicopters, and weapons.<sup>539</sup> A victim also identified the presence of members of the Dignity Battalions.<sup>540</sup>

290. In the context of loud noises, explosions of “bombs and cannons,” and gunfire at the same time,<sup>541</sup> there was, as in the rest of El Chorrillo, widespread anxiety and great confusion among the civilians about the possibility of leaving their homes in conditions that would protect their safety.<sup>542</sup>

291. Some victims relate that they were evacuated on orders issued by U.S. soldiers a bit before the clash, whereas others left their homes because they felt unsafe there. In this regard, some civilians could not leave without putting their lives in jeopardy, as a result of which they were evacuated the following day without being able to take their belongings with them. The alleged victims highlight that they were evicted, some of them by force, by government authorities of the United States without having access to their homes for several days.

292. A large number of individuals who identified themselves as residents described how they suffered from psychological and emotional harm because of the noise and violence of the explosions. They did not have any electricity or water for five or more days and were isolated because their phone lines were down. Because of the power outages or being otherwise prevented from having access to electricity, the victims describe the total damage to their household appliances, which remained inoperable,<sup>543</sup> which in turn meant that the food could not be eaten.

293. The IACtHR has been informed about the damages caused to the homes of individualized victims, in particular to walls and windows as a result of gunfire or bombing.<sup>544</sup> Nevertheless, although most of

<sup>539</sup> Statement referring to case No. 207. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991; Statement referring to case No. 209. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>540</sup> Statement referring to case No. 207. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>541</sup> Statement referring to case No. 209. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>542</sup> Statement referring to case No. 178. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>543</sup> *Lucía García Bell*, identified in Case No. 159; *Virgilio Sánchez Sánchez and María de la Cruz Polanco* identified in Case No. 160; *Sandra Mudarra de Ledezma* identified in Case No. 161; *Sara Judith Batista de Herrera*, identified in Case No. 162; *Georgina Yearwood Smith*, identified in Case No. 163; *Gloria S. Jaén V.*, identified in Case No. 164; *Alcides Bernal López*, identified in Case No. 165; *Gilma Sánchez de De la Cruz*, identified in Case No. 166; *Olmedo Oliveros*, identified in Case No. 167; *Arsenio Pérez de León*, identified in Case No. 168; *Adelaida Hernández*, identified in Case No. 169; *Yadira A. Lezcano*, identified in Case No. 170; *Antonia G. de Crespo*, identified in Case No. 171; *Franklin Loo de Gracia*, identified in Case No. 173; *Raúl Elías Acevedo C.*, identified in Case No. 174; *Betsy Guevara de Márquez and Ana Martínez*, identified in Case No. 175; *Betsy Guevara de Martínez and Ana Martínez*, identified in Case No. 177; *Neira Estela Bethancourt*, identified in Case No. 180; *Casimiro Bultrón Alba*, identified in Case No. 181; *Julio César González P.*, identified in Case No. 185; *Ana de Freitas*, identified in Case No. 191; *Carlos Navas Ospino*, identified in Case No. 193; *César Vargas Melo*, identified in Case No. 199; *Rufina Rodríguez G.*, identified in Case No. 200; *Rita Isabel Donayres W.*, identified in Case No. 204; *Andrea L. de Arosemena*, identified in Case No. 205; *Clorinda E. González*, identified in Case No. 207; *Máximo Henríquez L.*, identified in Case No. 211; *Federico Armien*, identified in Case No. 220; *Cándido Barbo Moreno*, identified in Case No. 265.

<sup>544</sup> *Jorge E. Oliveros L.*, identified in Case No. 117; *Luis Anel Durán Vásquez*, identified in Case No. 150; *Rebeca Esilda Meléndez*, identified in Case No. 154; *Adelaida Hernández*, identified in Case No. 169; *Jorge A Cobos Morán*, identified in Case No. 172; *Jacinto Centella*, identified in Case No. 182; *Gilberto Moreno Ponce*, identified in Case No. 188; *René A. Cerrud*, identified in Case No. 190; *Ernesto Rodríguez*, identified in

the residents describe “indiscriminate looting,” there is only once case where they expressly describe having lost their belongings because of looting in Patio Pinel.<sup>545</sup>

294. It is worth stressing that, according to available information, in the context of the clashes and evictions that took place in Patio Pinel, specifically on the night of December 19 to 20, U.S. soldiers focused special attention on Building No. 1 of the building complex Patio Pinel. Regarding this, according to the description of the incidents, they surrounded the building while they were armed and fenced it in with “barbed wire” making it difficult for the civilian residents to leave.<sup>546</sup>

#### Loss of personal property related to the employment of the victims from El Chorrillo

295. The Commission takes note of the destruction and/or loss of property in connection with the work the victims did. On this point, the Commission proceeds to describe, in light of the submitted accounts, the impact on business premises where the alleged victims conducted their retail trade activities, as well as the loss of materials, machinery, and work tools.<sup>547</sup> According to the information provided, these losses were even more substantial because of the proximity of Christmas holiday festivities at the time of the invasion, as a result of which businesses had an abundant stock of merchandise.<sup>548</sup> The economic impact was significant, affecting the standard of living and making it difficult to secure new sources of income,<sup>549</sup> not only for the business owners but also for the employees working in this area.

296. As a general matter, the petitions present effect on businesses located on the streets of El Chorrillo,<sup>550</sup> especially those hit by the fire.<sup>551</sup> However, they also place special emphasis on the damages sustained by the businesses located in El Chorrillo’s outlying market called Mercado Periférico and the affected retailers.<sup>552</sup>

297. According to information presented, on the same day, December 20, the above-mentioned market was the scene of looting by unidentified individuals, and it was affected by the large-scale fire that started in the neighborhood. It is important to note that it was impossible to establish the sequence of events, in terms of the damage created by the fire itself and that caused by related actions or illegal activities.

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Case No. 196; *César Vargas Melo*, identified in Case No. 199; *Enilda E. Rivas*, identified in Case No. 202; *Raiza L. Arosemena*, identified in Case No. 209; and *Vielka Xiomara Bellido Walter*, identified in Case No. 218.

<sup>545</sup> *Máximo Henríquez L.*, identified in Case No. 211.

<sup>546</sup> Statement referring to case No. 116 Annex to the brief of additional information submitted by the petitioning party on September 19, 1991; and Statement referring to case No. 126. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>547</sup> *Bartolo Pío Morales*, identified in Case No. 131; *Eladio Patiño*, identified in Case No. 139; *Sócrates Tuñón Bárcenas*, identified in Case No. 144; *Camilo Miranda*, identified in Case No. 145; *Adán Montenegro Cedeño*, identified in Case No. 249; *Luis Aristóbulo Murillo Antúnez*, identified in Case No. 250; *Enera María Vivero Cáceres*, identified in Case No. 251; *Luis Antonio Yunsán Márquez*, identified in Case No. 252; *Gilberto Julio Yunsán Román*, identified in Case No. 253; *Francisca Batista Velásquez*, identified in Case No. 254; *Bienvenido Aizprúa Guerra*, identified in Case No. 255; *Ludovina Montenegro de González*, identified in Case No. 256; *Blanca Rosa Pinto A.*, identified in Case No. 257; *Hugo Alberto Samaniego Lasso*, identified in Case No. 258; *Leonidas Bernald M.*, identified in Case No. 259.

<sup>548</sup> Statement referring to case No. 259. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>549</sup> Statement referring to case No. 258. Annex to the brief of additional information submitted by the petitioning party on September 19, 1991.

<sup>550</sup> *Evelia Palma de Valdés*, identified in Case No. 40; *Nidia Morales de Serrano*, identified in Case No. 237; *Isaac D. Mosquera*, identified in Case No. 243; *Funicia E. Anderson*, identified in Case No. 244; *Mariano Cianca Sánchez*, identified in Case No. 245; *Hugo Varcasía Adames* and *Yolanda de Varcasía*, identified in Case No. 246; *Rosa Bernal Smith*, identified in Case No. 247; *Dennis Alexis Navarro*, identified in Case No. 248.

<sup>551</sup> *Luzmila Harding de Castillo*, identified in Case 210.

<sup>552</sup> List from the Municipality of Panama, in which the retailers of the outlying market, Mercado Periférico of El Chorrillo, affected by the events that took place on December 20, 1989, linked to case No. 232. Annex brief of additional information from the petitioning party of October 3, 1994.

298. Specifically, although some victims describe having been left without any equipment or merchandise after the looting and being at a standstill in terms of work,<sup>553</sup> others expressed doubts as to whether they would be able to specify the cause of the loss of their property.<sup>554</sup> On this point, the IACtHR specifies that many of the retailers were renting the premises for their business.

#### Destroyed motor vehicles

299. Among the victims in the area of El Chorrillo, note must be made of those who alleged the total loss of their motor vehicles that were used directly in connection with the trade or business through which they earned a living. In that respect, the IACtHR notes the loss of buses used for public transportation or as school buses<sup>555</sup> and taxis.<sup>556</sup> In only three cases was there a complaint filed for the loss of a motor vehicle for personal use unrelated to any income-earning activity.<sup>557</sup> Regarding this, the complaints emphasize that the destruction was the result of the fire that broke out on December 20, 1989,<sup>558</sup> and gunfire by U.S. soldiers.<sup>559</sup>

#### **5.2 City of Colón**

300. As for the other areas that were affected, the Commission observes a large number of alleged victims of actions taken in the context of the invasion in the city of Colón. The accounts indicate that, as in Panama City, civilian property was damaged as a consequence of the use of explosive materials and fires.

301. With respect to Colón, most of the victims who identified themselves as living there indicated specifically that, on December 22, 1989, at three o'clock in the afternoon, there were actions that, for the civilians, led to the loss of "all of their property." In that regard, according to the complaints filed, there was damage because of bombing<sup>560</sup> and the fire that occurred afterwards.<sup>561</sup>

#### Residential building known as "15 Piso"

302. According to information presented, in the afternoon of December 22, 1989, an undetermined number of individuals, allegedly members of the so-called Dignity Battalions, started to fire at one of the helicopters of the U.S. Navy from the residential building known as "15 Piso." In response, the servicemen inside the helicopter attacked the building using explosive weapons for the purpose of neutralizing the threat.

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<sup>553</sup> Octavio Augusto Bonilla A., identified in Case No. 132, recognizes that he received compensation from the state without specifying which; Esaida de Santamaría, identified in Case No. 138; Adis Griselda Alt. Torres de Moreno, identified in Case No. 226; Demesio González, identified in Case No. 227; Julio Castro Vega, identified in Case No. 230; Rosa Elea Hidalgo, identified in Case No. 231; Aura Elena Morales, identified in Case No. 232; Eladio Murillo Castillo, identified in Case No. 233; Rubiela E. Batista, identified in Case No. 234; Juvencia Guzmán de Valdés, identified in Case No. 235; Amayra Ruíz de Pérez, identified in Case No. 239.

<sup>554</sup> Dario Bonilla Pineda, identified in Case No. 228; José Eduardo Santiago, identified in Case No. 229; Delmira Frías Barasona, identified in Case No. 236; Amable Abrego, identified in Case No. 238; Agustina Caballero, identified in Case No. 241; Rosario María Sánchez de Guanti, identified in Case No. 240; Juana de los Milagros Alcántara, identified in Case No. 242; Quintín Muñoz Caballero, identified in Case No. 266.

<sup>555</sup> Digna María Sánchez P., identified in Case No. 128; Anel Edgardo Canto Vásquez, identified in Case No. 149; Elvira Rosa Guevara de Ortiz, identified in Case No. 261; Jonas Antonio Vega, identified in Case No. 262; Luis Latorraca, identified in Case No. 263; Herminio Medina Ureña, identified in Case No. 264; and Pedro Celestino Villareal Pérez, identified in Case No. 260.

<sup>556</sup> Alcides Guillermo Mena, identified in Case No. 75; Alberto Morán, identified in Case No. 127.

<sup>557</sup> Camilo Zamora Hidalgo and Rodolfo Abdiel, identified in Case No. 13; Alciabiades Rodríguez and Víctor Manuel Hernández, identified in Case No. 130; and Dennis Alexis Navarro, identified in Case No. 248.

<sup>558</sup> Digna María Sánchez P., identified in Case No. 128; Pedro Celestino Villareal Pérez, identified in Case No. 260; Rosa Guevara de Ortiz, identified in Case No. 261; Luis Latorraca, identified in Case No. 263; Herminio Medina Ureña, identified in Case No. 264.

<sup>559</sup> Camilo Zamora Hidalgo and Rodolfo Abdiel, identified in Case No. 13; Alcides Guillermo Mena, identified in Case No. 75; Jonas Antonio Vega, identified in Case No. 262.

<sup>560</sup> José Isabel Salas Galindo and family members, identified in Case No. 1; Elida Betezan Pacheco, identified in Case No. 4; Alejandro Vivanco, identified in Case No. 5; Ernesta Ortiz Lagrant, identified in Case No. 26; Arturo Argelio Robinson Williams and Luisa Williams, identified in Case No. 31; Héctor Eduardo Góndola D., identified in Case No. 109; Amalia Fernández Taylor, identified in Case No. 110.

<sup>561</sup> Eleuterio Lee Prado and family members, identified in Case No. 2; José Manuel Borbúa, identified in Case No. 6; Rubén D. Licorish, identified in Case No. 8; Eusebia Meneses Castrellon, identified in Case No. 14; Orlando Jaramillo, identified in Case No. 18; Irene Alonso, identified in Case No. 25; Lidia Ana Rowe, identified in Case No. 33; Roosevelt McNally, identified in Case No. 39; María Archibald, identified in Case No. 111; Rodolfo Cargill Mejía, identified in Case No. 222; Doris Isabel Atencio, identified in Case No. 267.

303. As a result, the building sustained major structural damages, jeopardizing its habitability.<sup>562</sup> According to statements by the victims, the bombing led to the fragments of the structure itself being broken away, collapse of the water pump's foundation, cracks or breaks in the building's walls and staircases leading to seepage, huge holes in the roof terrace, broken windows, and the total loss of the elevator.<sup>563</sup> There were electric power and water supply outages for several days<sup>564</sup> and there was major damage to individual apartments.

304. These victims describe that the damages led to the total loss of the apartment because of cracks in the walls, seepage, broken windows, and damages to the belongings that were inside the apartment.<sup>565</sup>

305. It is important to highlight that, in the context of this bombing, the residents of the building known as Edificio Piso 15 were also affected as victims of off-course explosives and fires that affected their homes and produced injuries and death as well.<sup>566</sup>

#### **IV. ANALYSIS ON THE MERITS**

##### **A. Extra-Territorial International Responsibility and Effective Control**

306. As the Commission stated in its decision on admissibility in the present case, its competence to review the claims before it derives from the terms of the OAS Charter, its Statute and Regulations. Pursuant to the Charter, all member States undertake to uphold the fundamental rights of the individual. In the case of countries not party to the Convention, the rights concerned are those set forth in the American Declaration, which constitutes a source of international obligation. The Commission is directed by its Statute to pay special attention to the observance of Articles I, II, III, IV, XVIII, XXV, and XXVI of the Declaration in exercising competence with respect to non-parties to the Convention.<sup>567</sup>

307. The Commission considers it relevant to note that, under certain circumstances, the exercise of its competence over acts occurring outside the territory of the state being denounced is not only consistent with but required by the norms which pertain.<sup>568</sup>

308. Given that individual rights inhere simply by virtue of a person's humanity, each American State is obliged to uphold the rights of any person subject to its jurisdiction. While this most commonly refers to persons within a state's territory, it may, under given circumstances, refer to situations where the person concerned is present in the territory of one state, but subject to the control or authority of another state, usually through the acts of the latter's agents abroad.<sup>569</sup>

<sup>562</sup> Statement referring to case No. 44. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990.

<sup>563</sup> Alejandro Vivanco, identified in Case No. 5; Maritza Xiomara Vélez, identified in Case No. 9; Gloria Preston, identified in Case No. 23; Carmen Luis Bosque, identified in Case No. 24; Virginia Anthony, identified in Case N. 28; Ricardo Z. Cerezo Gomez, identified in Case No. 29; Carlos Miller, identified in Case No. 32; Wilfredo Jorge Davis, identified with Case No. 34; Julio Moreno and Maricruz Moreno, identified in Case No. 35; Angélica Escalona, identified in Case No. 36; Rosa Góndola, identified in Case No. 38; Olga de Orozco, identified in Case No. 41; Adolfo Arturo Tello Bravo, identified in Case No. 42; Silvana Chifundo, identified in Case No. 43; Omaira León Franco de Alleyne, identified in Case No. 44; Alberto Steele, identified in Case No. 45; Griselda de Moreno, identified in Case No. 46; Ligia Davis Valencia, identified in Case No. 49; Rafael Rapallo, identified in Case No. 50; César Peuccio, identified in Case No. 51; Daniel Ricardo Avila Fuentes, identified in Case No. 52; Marcella Ortega, identified in Case No. 53; Guillermo Lemos, identified in Case No. 54; Carlos J. Watson, identified in Case No. 55; Osvaldo Rivera Berrio, identified in Case No. 56; Maricel Rivera Mendoza, identified in Case No. 57; Carlos Gilberto Soto M., identified in Case No. 58; Bienvenido Valencia Goya, identified in Case No. 59; Ricardo Laguna, identified in Case No. 60.

<sup>564</sup> Statement referring to case No. 44. Annex to the brief of additional information submitted by the petitioning party on June 29, 1990.

<sup>565</sup> Alejandro Vivanco, identified in Case No. 5; Carlos Delgado Robinson, identified in Case No. 22; Rosa Góndola, identified in Case No. 38; Griselda de Moreno, identified in Case No. 46; César Peuccio, identified in Case No. 51; Carlos Gilberto Soto M., identified in Case No. 58.

<sup>566</sup> José Isabel Salas Galindo and family members, identified in Case No. 1; Eleuterio Lee Prado and family members, identified in Case No. 2; Elida Betezan Pacheco, identified in Case No. 4; Alejandro Vivanco, identified in Case No. 5; Marva Paulina Mastre de Jackson, identified in Case No. 37; and Rooselvelt McNally, identified in Case No. 39.

<sup>567</sup> IACHR. Report No. 109/99. Case No. 10.951. Merits. Coard et al. (United States). September 29, 1999, para. 36.

<sup>568</sup> IACHR. Report No. 109/99. Case No. 10.951. Merits. Coard et al. (United States). September 29, 1999, para. 37.

<sup>569</sup> IACHR. Report No. 109/99. Case No. 10.951. Merits. Coard et al. (United States). September 29, 1999, para. 37; Theodor Meron, "Extraterritoriality of Human Rights Treaties," 89 A.J.I.L. (1995) 78, 81; see also id., p. 79, n. 7, quoting Thomas Buergenthal, "To Respect and Ensure: State Obligations and Permissible Derogations," in The International Bill of Rights: The Covenant on Civil and Political Rights 72, 74 (Louis Henkin ed. 1981).

309. This approach is consistent with international law in a broader sense, where the bases of jurisdiction are not exclusively territorial, but may include other criteria as well.<sup>570</sup> Thus, although jurisdiction usually refers to authority over persons who are within the territory of a State, human rights are inherent in all human beings and are not based on their citizenship or location.<sup>571</sup> The Commission has pointed out that, under the Inter-American System, each State is obligated to respect the rights of all persons within its territory and of those present in the territory of another State but subject to the control of its agents.<sup>572</sup> This position accords with that of other international organizations that, in analyzing the sphere of application of international human rights instruments, have assessed their possible extraterritorial application.<sup>573</sup>

310. As for the European court of Human Rights, it has reached similar conclusions and, in this regard, has determined that the term “jurisdiction” is not confined to the national territory of a state party, because responsibility may arise for acts carried out by its authorities that lead to effect outside of its territory.<sup>574</sup> The exercise of jurisdiction is a necessary condition to hold a state responsible for the acts or omissions that can be imputed to it and which led to an infringement of protected rights and liberties.<sup>575</sup>

311. Likewise, in its decision in the case of *Bankovic and others v. Belgium*,<sup>576</sup> the European Court insisted that the meaning of the term “jurisdiction” stems from international law and is primarily but not exclusively territorial.<sup>577</sup>

312. The International Court of Justice, when examining the scope of application of the International Covenant on Civil and Political Rights in its Advisory Opinion on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, stated that “while the jurisdiction of States is primarily territorial, it may sometimes be exercised outside the national territory” and that “[c]onsidering the object and purpose of the International Covenant on Civil and Political Rights, it would seem natural that, even when such is the case, States parties to the Covenant should be bound to comply with its provisions.”<sup>578</sup> Similarly, when deciding the case of *RDC v. Uganda*, it made a ruling indicating that international human rights law applies in connection with acts carried out by a state in the exercise of its jurisdiction outside of its own territory.<sup>579</sup> As for the Human Rights Committee, with respect to the International Covenant on Civil and Political Rights that establishes the obligation of states to respect and guarantee human rights “to all individuals who are in its territory and are subject to its jurisdiction,” it has deemed the Covenant’s extraterritorial application admissible on the basis of the requirement of authority or control in both the context of individual cases and that of final observations on periodic reports of states.<sup>580</sup>

<sup>570</sup> IACtHR. Report No. 112/10, Inter-state petition PI-02. Admissibility. Case Franklin Guillermo Aisalla Molina, Ecuador v. Colombia. October 21, 2010, para. 91.

<sup>571</sup> IACtHR. Report No. 112/10, Inter-state petition PI-02. Admissibility. Case Franklin Guillermo Aisalla Molina, Ecuador v. Colombia. October 21, 2010, para. 91.

<sup>572</sup> IACtHR. Report No. 86/99, Case No. 11.589. Admissibility. Armando Alejandre Jr. et al. (Cuba), April 13, 1999.

<sup>573</sup> IACtHR. Report No. 112/10, Inter-state petition PI-02. Admissibility. Case Franklin Guillermo Aisalla Molina, Ecuador v. Colombia. October 21, 2010, para. 91.

<sup>574</sup> ECHR. *Drozd and Janousek v. France and Spain*, Judgment of June 26, 1992, para. 91. See also the decisions of the European Commission of Human Rights on the Admissibility of Petition 1611/62, X v. the Federal Republic of Germany, September 25, 1965; Petition No. 6231/73, *Hess v. United Kingdom*, May 28, 1975; petitions 6780/74 and 6950/75, *Cyprus v. Turkey*, May 26, 1975; petitions 7289/75 and 7349/76, X and Y v. Switzerland, July 14, 1977; Petition 9348/81, W. v. United Kingdom, February 28, 1983.

<sup>575</sup> ECHR. *Ilascu and others v. Moldova and Russia*, [GC] Application No. 48787/99. Judgment of July 8, 2004, para. 311.

<sup>576</sup> ECHR. *Bankovic and others v. Belgium and others*. Judgment of December 12, 2001, paras. 59-61.

<sup>577</sup> IACtHR. Report No. 112/10, Inter-state petition PI-02. Admissibility. Case Franklin Guillermo Aisalla Molina, Ecuador v. Colombia. October 21, 2010, para. 95.

<sup>578</sup> ICJ. Advisory Opinion on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, July 9, 2004, para. 109. Available at: [http://www.ici-cij.org/homepage/sp/advisory/advisory\\_2004-07-09.pdf](http://www.ici-cij.org/homepage/sp/advisory/advisory_2004-07-09.pdf).

<sup>579</sup> ICJ. Case concerning Armed Activities on the Territory of the Congo (Democratic Republic of Congo v. Uganda), 19 December 2005, para. 216. Available at: <http://www.ici-cij.org/docket/files/116/10455.pdf>.

<sup>580</sup> CCPR. *López Burgos v. Uruguay*, Doc. UN CCPR/C/13/D/52/1979, July 29, 1981; *Celiberti v. Uruguay*, Doc. UN CCPR/C/13/D/56/1979, 29 July 1981; Final observations on Cyprus, Doc. UN CCPR/C/79/Add.39, September 21, 1994, para. 3; Final observations on Israel, Doc. UN CCPR/C/79/Add.93, August 18, 1998, para. 10; Final observations on Israel, Doc. UN CCPR/CO/78/ISR, August 21, 2003, para.11; Final

313. On the extraterritorial exercise of jurisdiction, the IACtHR has pointed out that it must be ascertained that the territory under review and consequently the alleged victims have been subjected to the authority and control of the agents<sup>581</sup> of foreign forces. In that respect, the IACtHR has emphasized that the responsibility of member States under the American Declaration and the American Convention is engaged by the action nor omission of their agents.<sup>582</sup> This is not confined to actions inside their territories, but rather extends, in addition, to circumstances occurring in the territory of another state, as long as the control and authority of the respective agents over that territory have been established.<sup>583</sup>

314. In this regard, the Commission has stressed that, at the time of examining the scope of the American Declaration's application, it must be ascertained whether there is a causal connection between the extraterritorial conduct of a state through the actions or omissions of its agents and/or persons who have acted under its orders or acquiescence and the alleged violation of the rights and freedoms of an individual.<sup>584</sup>

315. Along similar lines, the European Court in the case of *Loizidou v. Turkey*, ruled that, wherever a state exerts effective control over a territory, as in the case of military occupations, it exercises jurisdiction.<sup>585</sup> The Court described this in the following terms:

In this respect the Court recalls that, although Article 1 (art. 1) sets limits on the reach of the Convention, the concept of "jurisdiction" under this provision is not restricted to the national territory of the High Contracting Parties. [...] the responsibility of Contracting Parties can be involved because of acts of their authorities, whether performed within or outside national boundaries, which produce effects outside their own territory [...].

Bearing in mind the object and purpose of the Convention, the responsibility of a Contracting Party may also arise when as a consequence of military action—whether lawful or unlawful—it exercises effective control of an area outside its national territory. The obligation to secure, in such an area, the rights and freedoms set out in the Convention derives from the fact of such control whether it be exercised directly, through its armed forces, or through a subordinate local administration.<sup>586</sup>

316. Subsequently, in the case of *Issa and others v. Turkey*, the European Court reiterated that a state may be held accountable for the violation of rights and freedoms of persons who are in the territory of another state, but who are found to be under the control and authority of the former state's agents, who were operating, whether lawfully or unlawfully, in the latter state. The test to be applied is that of "effective control." According to the European Court, accountability in such a situation stems from the fact that Article 1 of the European Convention cannot be interpreted as to allow a state party to perpetrate human rights violations on the territory of another state, which it could not perpetrate on its own territory.<sup>587</sup> The Court indicated that the overall "effective control", for example as a result of a military operation, could be temporary, and over a

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observations on Belgium, Doc. UN CCPR/C/79/Add.99, November 19, 1998, para. 14; Final observations on the Netherlands, Doc. UN CCPR/CO/72/NET, August 27, 2001, para. 8; and Final observations on Belgium, Doc. UN CCPR/CO/81/BEL, August 12, 2004, para. 6.

<sup>581</sup> IACtHR. Report No. 109/99. Case No. 10.951. Merits. Coard et al. (United States). September 29, 1999, para. 37; IACtHR. Report No. 14/94, Case No. 10.951, Callistus Bernard et al. (United States). February 7, 1994, paras. 6 and 8; IACtHR. Report No. 31/93, Case No. 10.573, Salas (United States), October 14, 1993, para. 6; IACtHR. Report No. 112/10, Inter-state petition PI-02. Admissibility. Case Franklin Guillermo Aisalla Molina, Ecuador v. Colombia. October 21, 2010, para. 98; IACtHR, Report No. 86/99, Case No. 11.589, Armando Alejandro Jr et al. (Cuba), April 13, 1999.

<sup>582</sup> IACtHR, Report No. 86/99, Case No. 11.589, Armando Alejandro Jr et al. (Cuba), April 13, 1999; I/A Court H.R. Case of the Santo Domingo Massacre v. Colombia. Preliminary Objections, Merits, and Reparations. Judgment of November 30, 2012. Series C No. 259.

<sup>583</sup> IACtHR. Report No. 112/10, Inter-state petition PI-02. Admissibility. Case Franklin Guillermo Aisalla Molina, Ecuador v. Colombia. October 21, 2010, para. 98 and ss.

<sup>584</sup> IACtHR. Report No. 112/10, Inter-state petition PI-02. Admissibility. Case Franklin Guillermo Aisalla Molina, Ecuador v. Colombia. October 21, 2010, para. 99.

<sup>585</sup> ECHR. Loizidou v. Turkey (Preliminary objections). Judgment of March 23, 1995, para. 62; and ECHR. Loizidou v. Turkey, Judgment of December 18, 1996.

<sup>586</sup> ECHR. Loizidou v. Turkey (Preliminary objections). Judgment of March 23, 1995, para. 62.

<sup>587</sup> ECHR. Issa and others v. Turkey. Judgment of November 16, 2004, para. 71.

particular portion of the territory of the second state, and still give rise to international responsibility for the first state.

317. In its General Observation No. 31, the Human Rights Committee established that:

[...] The enjoyment of Covenant rights is not limited to citizens of States parties but must also be available to all individuals, regardless of nationality or statelessness [...]. This principle also applies to those within the power or effective control of the forces of a State party acting outside its territory, regardless of the circumstances in which such power or effective control was obtained, such as forces constituting a national contingent of a State party assigned to an international peacekeeping or peace-enforcement operation.<sup>588</sup>

318. Under these scenarios of occupation, the Inter-American Commission observes that it is necessary to confirm the existence of “effective control,” and for this the relevant standards of international humanitarian law and human rights for territory subject to occupation apply.<sup>589</sup>

319. In this regard, Article 42 of the Hague Regulations of 1907 establishes that: “Territory is considered occupied when it is actually placed under the authority of the hostile army. The occupation extends only to the territory where such authority has been established and can be exercised.” With respect to this, the International Committee of the Red Cross has established that, by virtue of Article 2 common to the four Geneva Conventions of 1949, these treaties apply to any territory occupied during international hostilities, as well as in situations where the occupation of state territory meets with no armed resistance.<sup>590</sup>

320. Furthermore, the ICRC has established that, although occupation is regulated by the Charter of the United Nations and the law known as *jus ad bellum*, once a situation exists which factually amounts to an occupation, the law of occupation applies, whether or not the occupation is considered lawful. Therefore, as supported by the ICRC, in order to determine the applicability of the law of occupation, it makes no difference whether an occupation has received Security Council approval, what its aim is, or indeed what it is called; rather, the determination of its applicability is based solely the facts on the ground. The ICRC has also established that the law of occupation applies in cases of either total or partial occupation of foreign territories, regardless of whether the occupation meets with armed resistance.<sup>591</sup>

321. Moreover, in a case similar to the one being examined now, the IACtHR established that protection of the Fourth Geneva Convention begins to apply “from the outset of any conflict or occupation mentioned in Article 2.”<sup>592</sup> Relations between advancing troops and civilians are governed by the Convention (whether that advance includes hostilities or not), and there is no gap in the application of the provisions ‘between what might be termed the invasion phase and the inauguration of a stable regime of occupation.’<sup>593</sup>

## B. Applicability of International Humanitarian Law as Lex Specialis

322. The American Declaration, as well as other universal and regional human rights instruments, shares with the 1949 Geneva Conventions a common nucleus of non-derogable rights and a common purpose of protecting human life and dignity.<sup>594</sup> Although these human rights treaties apply both in peacetime and during

<sup>588</sup> Human Rights Committee. General Comment No. 31: the Nature of the General Legal Obligation Imposed on States Parties to the Covenant, Eightieth session, U.N. Doc. HRI/GEN/1/Rev.7 at 225 (2004), paragraph 10.

<sup>589</sup> International Committee of the Red Cross. “Occupation and international humanitarian law,” August 4, 2004.

<sup>590</sup> International Committee of the Red Cross. “Occupation and international humanitarian law,” August 4, 2004.

<sup>591</sup> International Committee of the Red Cross. “Occupation and Other Forms of Administration of Foreign Territory: Expert Meeting”, June 11, 2012.

<sup>592</sup> IACtHR. Report No. 109/99. Case No. 10.951. Merits. Coard et al. (United States). September 29, 1999, para. 51.

<sup>593</sup> IACtHR. Report No. 109/99. Case No. 10.951. Merits. Coard et al. (United States). September 29, 1999, para. 51.

<sup>594</sup> IACtHR Report No. 55-97. Case No. 11.137. Juan Carlos Abella (Argentina), November 18, 1997, para. 158; IACtHR. Report No. 112/10, Inter-state petition PI-02. Admissibility. Case Franklin Guillermo Aisalla Molina, Ecuador v. Colombia. October 21, 2010, para.117.

situations of armed conflict<sup>595</sup> these human rights instruments were not designed to regulate situations of war and, thus, they contain no rules governing the means and methods of warfare.<sup>596</sup>

323. Thus, both common Article 3 of the Geneva Conventions and Article 1 of the American Declaration of the Rights and Duties of Man protect the right to life and, as result, forbid extrajudicial executions under any circumstance.<sup>597</sup> Therefore, the petitions alleging the arbitrary deprivation of the right to life, imputable to agents of the State, are clearly within the competence of the Inter-American Commission; if it has been established that there is an armed conflict, it is indispensable to resort to international humanitarian law as a source for an authorized interpretation that would make it possible to apply the American Declaration with due consideration for the specific characteristics of this situation.<sup>598</sup>

324. From the above, it follows that the Commission has competence over the facts denounced, that occurred in the context of an armed conflict. In the context of the American Convention, as a general reference, Article 27 indicates that it is possible to suspend certain rights in the context of armed conflict but clearly indicates that it is not possible to suspend the validity of the Convention in its entirety or to deprive this Commission of its attributions.<sup>599</sup>

325. As the IACHR has established, the same analysis applies to the American Declaration, an instrument drawn in general terms that does not include specific provisions relating to its applicability in situations of conflict<sup>600</sup> or suspension of guarantees. Accordingly, at the merits stage the IACHR must analyze the State's obligations under the American Declaration in light of the standards of international humanitarian law that apply as *lex specialis* for purposes of interpretation.<sup>601</sup>

326. Along the same lines, the Commission observes that a group of experts of the ICRC reached a similar conclusion when it established that international human rights law is fully applicable in cases of occupation. The group stressed that, in these cases, it is advisable to address both systems simultaneously striking a balance between the interpretation and application of the *lex specialis* and international human rights law so that humanitarian considerations and military needs are respected.<sup>602</sup> Furthermore, this interaction of systems be determined and analyzed case by case.

327. As a general matter, while the Commission may find it necessary to look to the applicable rules of international humanitarian law when interpreting and applying the norms of the Inter-American Human Rights System, where those two bodies of law provide levels of protection which are distinct, the Commission is bound by its Charter-based mandate to give effect to the normative standard which best safeguards the rights of the individual.<sup>603</sup>

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<sup>595</sup> IACHR. Report No. 55-97. Case No. 11.137 Juan Carlos Abella (Argentina). November 18, 1997, para.152. In said case, the IACHR established that "the provisions of common Article 3 are essentially pure human rights law. Thus, as a practical matter, application of common Article 3 by a State party to the American Convention involved in internal hostilities imposes no additional burdens on, or disadvantages its armed forces vis-à-vis dissident groups. This is because Article 3 basically requires the State to do, in large measure, what it is already legally obliged to do under the American Convention."

<sup>596</sup> IACHR Report No. 55-97. Case No. 11.137. Admissibility. Juan Carlos Abella (Argentina), November 18, 1997; IACHR. Report No. 112/10. Inter-state Petition PI-02. Admissibility. Case Franklin Guillermo Aisalla Molina, Ecuador v. Colombia. October 21, 2010, para.116.

<sup>597</sup> IACHR. Report No. 112/10, Inter-state petition PI-02. Admissibility. Case Franklin Guillermo Aisalla Molina, Ecuador v. Colombia. October 21, 2010, para.118.

<sup>598</sup> IACHR. Report No. 112/10, Inter-state petition PI-02. Admissibility. Case Franklin Guillermo Aisalla Molina, Ecuador v. Colombia. October 21, 2010, para.118.

<sup>599</sup> IACHR, Report No. 11/05. Petition No. 708/03. Admissibility. Gregoria Herminia, Serapio Cristián and Julia Inés Contreras. (El Salvador). February 23, 2005, para. 20.

<sup>600</sup> IACHR. Report No. 109/99. Case No. 10.951. Merits. Coard et al. (United States). September 29, 1999, para. 42.

<sup>601</sup> IACHR. Report No. 11/05 (Admissibility). Petition 708/03. Gregoria Herminia, Serapio Cristián, and Julia Inés Contreras. El Salvador. February 23, 2005, para. 20.

<sup>602</sup> International Committee of the Red Cross (ICRC), "Occupation and Other Forms of Administration of Foreign Territory: Expert Meeting", 11 June 2012.

<sup>603</sup> IACHR. Report No. 109/99. Case No. 10.951. Merits. Coard et al. (United States). September 29, 1999, para. 42.

328. Because of their complementary and the fact that both normative frameworks are based on common core principles and values, international human rights law and IHL can provide reciprocal influence and reinforcement. This is consistent with, the terms Article 31.3 (c) of the Vienna Convention on the Law of Treaties,<sup>604</sup> which establishes that, when interpreting a law, “[a]ny relevant rules of international law applicable in the relations between the parties” must be taken into consideration.<sup>605</sup> From this it can be concluded that international human rights law can be interpreted in the light of international humanitarian law and the latter, in turn, can be interpreted in the light of international human rights law, if required.<sup>606</sup>

329. Thus, the IACHR asserts that, although the *lex specialis* regarding facts that take place in the context of an armed conflict is international humanitarian law, this does not mean that international human rights law does not apply. On the contrary, what it means is that, when applying human rights law under its mandate, in this case, the American Declaration, it may and sometimes must turn to international humanitarian law for the purpose of interpretation as the more specific normative framework that governs situations in armed conflict.<sup>607</sup>

330. Furthermore, the Inter-American Commission recalls that it is mandated by its Statute to examine claims alleging the violation of a right protected in the framework of the American Declaration.<sup>608</sup> Therefore, the fact that resolution of the claim might require reference to another treaty does not preclude that competence, and the Inter-American Court has endorsed the Commission’s practice of invoking “other treaties concerning the protection of human rights” in its resolutions and reports.<sup>609</sup> It only means that the IACHR can observe the norms of international humanitarian law as a concrete legal framework in order to give more specific application to the contents of the American Declaration when defining the scope of state obligations.<sup>610</sup>

331. In cases similar to the present one, the Commission has repeatedly established that certain core guarantees apply in all circumstances, including situations of conflict,<sup>611</sup> and this is reflected, *inter alia*, in the designation of certain protections pertaining to the person as peremptory norms (*jus cogens*) and obligations *erga omnes*, in principles of customary international law, and in the doctrine and practice of human rights bodies such as this Commission.<sup>612</sup> Furthermore, it has pointed out that a human rights instrument such as the American Declaration must be interpreted and applied in the general framework of the legal system in force at the time of its interpretation.<sup>613</sup> As a result, in the present case, this entails interpreting it in the light of international humanitarian law.

332. Pursuant to the foregoing consideration, the Commission concludes that, although it does not have the competence to declare that a state is internationally responsible for violating international treaties that do not give it capacity, it does have competence to interpret and apply the American Declaration in light of all the obligations applicable to the State in question, including, in this case, the obligations of international humanitarian law.

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<sup>604</sup> The United States has signed but has not ratified the Vienna Convention; The Commission considers that the principle in question is codified in that Treaty, but it is in any case a basic principle of interpretation.

<sup>605</sup> Vienna Convention on the Law of Treaties, 1969, Article 31.3 (c).

<sup>606</sup> IACHR. Report No. 112/10, Inter-state petition PI-02. Admissibility. Case Franklin Guillermo Aisalla Molina, Ecuador v. Colombia. October 21, 2010, para.121.

<sup>607</sup> IACHR. Report No. 109/99. Case No. 10.951. Merits. Coard et al. (United States). September 29, 1999, para. 42. See also International Court of Justice (ICJ), Advisory Opinion on the Legality of the Threat or Use of Nuclear Weapons, International Court of Justice (ICJ), Reports 1996, para. 25.

<sup>608</sup> IACHR. Report No. 109/99. Case No. 10.951. Merits. Coard et al. (United States). September 29, 1999, paras. 39 and ss.

<sup>609</sup> I/A Court H.R., “Other Treaties” Subject to the Consultative Jurisdiction of the Court (Article 64 American Convention on Human rights). Advisory Opinion OC-1/82 of September 24, 1982. Series A No. 1, para. 43.

<sup>610</sup> IACHR. Report No. 109/99, Case No.10.951. Merits. Coard et al. (United States). September 29, 1999.

<sup>611</sup> IACHR. Report No. 109/99, Case No. 10.951. Merits. Coard et al. (United States). September 29, 1999, para. 39.

<sup>612</sup>See, for example, IACHR Report on its activities in the Dominican Republic, OEA/Ser.L/V/II.15, doc. 6, 1966; Report on the situation of human rights in El Salvador and Honduras, OEA/Ser.L/V/II.23, doc. 9 rev. 1, 1970; Report on the situation of human rights in Uruguay, OEA/Ser.L/V/II.43, doc. 10 corr. 1, 1978; Report on the situation of human rights in Nicaragua, OEA/Ser.L/V/II.45, doc. 16, rev. 1, 1978; Report on the situation of human rights in Argentina, OEA/Ser.L/V/II.49, doc. 19, 1980.

<sup>613</sup> IACHR. Report No. 109/99. Case No. 10.951. Coard et al. (United States). September 29, 1999, para.40.

333. The parties do not dispute that the circumstances under review arose in the context of an international armed conflict as defined in common Article 2 of the Geneva Conventions.<sup>614</sup>

334. In view of the above considerations, and having established the effective control exercised by the United States over Panama during this time within the scope of the military occupation, the IACHR will analyze the facts in light of the obligations to respect and guarantee the rights set forth in the American Declaration. Here the IACHR emphasizes that, during the processing of the instant case, the United States did not dispute that it had exercised authority and control over Panamanian territory during the period under analysis.

### C. Right to Life, Personal Integrity and Protection of Children

335. Article I of the American Declaration establishes the right to life, liberty, and personal security, as follows:

Every human being has the right to life, liberty and the security of his person.

336. With respect to child victims, Article VII of the American Declaration establishes:

All women, during pregnancy and the nursing period, and all children have the right to special protection, care and aid.

337. The Commission has stressed that the right to life is a prerequisite for the enjoyment of all other human rights and if it is not respected all other rights are lost their meaning.<sup>615</sup> Its importance is reflected in its inclusion in all major international human rights instruments and in various international humanitarian law instruments, which establish fundamental guarantees to safeguard this right.

338. Accordingly, the prohibition of arbitrary deprivation of life is absolute even in a situation of armed conflict.<sup>616</sup> The same protection is afforded to the right to human treatment. In the context of armed conflict, the limits and extent of protection for the right to life and personal integrity are interpreted differently and have different ramifications than in times of peace. In situations of armed conflict, the analysis needs to be consonant with the principles of proportionality, distinction, necessity, and precaution that govern the use of force in an attempt to limit the suffering of the civilian population and unnecessary loss of life.<sup>617</sup>

339. If not in conformity with those principles, the use of lethal force in a context of armed conflict may constitute an arbitrary deprivation of life and a violation of personal integrity incompatible with the American Declaration.

340. Bearing in mind the foregoing consideration on the need to use international humanitarian law as *lex specialis* for an appropriate interpretation, in the context of an armed conflict, of the protections set out in the American Declaration, the IACHR will now refer to the content of the principles in that regulatory framework that are relevant for an analysis of the facts of the instant case.

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<sup>614</sup> See IACHR, Report No. 109/99, Case No. 10.951. Coard et al. (United States). September 29, 1999, para. 44. This article establishes, in its relevant part, that the Convention "shall apply to all cases of declared war or of any other armed conflict which may arise between two or more of the High Contracting Parties, even if the state of war is not recognized by one of them" and "shall also apply to all cases of partial or total occupation of the territory of a High Contracting Party, even if the said occupation meets with no armed resistance."

<sup>615</sup> IACHR, Report No. 31/17, Case No. 12.880. Merits. Edmundo Alex Lemun Saavedra et al. Chile. March 21, 2017, para. 78; and IACHR, Report No. 2/15. Case No. 12.270. Merits. Johan Alexis Ortiz Hernández, Venezuela, January 29, 2015, para. 185.

<sup>616</sup> IACHR, Report on Terrorism and Human Rights, OEA/Ser.L/V/II.116, October 22, 2002, para. 86. See also, IACHR Report No. 1/96, Case No. 10.559. Merits. Chumbivilcas. (Peru). March 1, 1996.

<sup>617</sup> IACHR, Report on Terrorism and Human Rights, OEA/Ser.L/V/II.116, October 22, 2002, paragraph 99; Eric David, (1999) *Principes de Droit des Conflits Armés*. Brussels, Bruylants. (2nd edition), pp. 215.

## 1. Principles of Distinction, Proportionality, Necessity, and Precaution

341. As the Commission explained in the foregoing section, in the instant case it is appropriate to take IHL standards into consideration as *lex specialis*. International humanitarian law provides for a series of general principles that represent a minimum of humanity applicable at any time, place, or circumstance; they are mainly used to interpret standards applicable in armed conflicts.<sup>618</sup> It must be noted that these principles apply even for states that are not Parties to the Conventions, given that they reflect customary international law.<sup>619</sup>

342. The fundamental principles of international humanitarian law may be defined as those universal directives recognized by civilized nations as binding for states over and above any treaty that are derived from the standards set forth in the Geneva Conventions of 1949 and its Additional Protocols and inspire this particular branch of law. They determine, limit, and channel the behavior to be observed by actors in national or international armed conflicts in order to comply precisely with the purposes pursued by this normative framework.<sup>620</sup>

343. The Commission notes that both treaty law and customary law are the principal sources of international humanitarian law.<sup>621</sup> Therefore, a proper interpretation of it requires resorting to both sources as tools for interpretation that complement one another. In the same vein, the IACHR emphasizes that, although the trend in recent years has been toward drawing up international humanitarian law treaties, most such instruments have not yet achieved universal ratification. It is therefore essential to resort to the rules of customary international law, which are mandatory even for states that are not parties to the treaties.<sup>622</sup>

344. In this regard, the Inter-American Commission notes that the United States is party to the Geneva Conventions of 1949 and Protocol III and, since 1977, is a signatory to Protocol I Additional to the Geneva Conventions concerning protection for civilians in international armed conflicts.<sup>623</sup> Thus, while this indicates that the United States has not assumed the obligations of the states that have ratified it, as a signatory State it is obliged to refrain from acts that would defeat its object and purpose.

345. In this regard, the states signatories to Additional Protocol I must refrain from any acts that endanger the life and integrity of civilians and their property in international armed conflict situations. In that sense, their actions shall be constrained both by the need to safeguard the substance and purpose of the Protocol and by the customary rules of IHL that contain principles that govern their actions during international armed conflicts.

346. The IACHR notes that, based on the concept of international humanitarian law and the specific purposes it pursues, certain guiding principles have been formulated that are rooted in both customary and treaty rules. These will now be reviewed to the extent relevant to the instant case. The references that follow are based on custom and treaty. The IACHR includes references to the Geneva Conventions, which the US has ratified, Protocol I, which it has signed but not ratified, and a number of other instruments, in some cases to which it is a party and in others to which it is not. The IACHR clarifies that references to treaties to which the US is not party are for purposes of general reference to indicate the degree to which these principles have been incorporated in international treaty law.

<sup>618</sup> ICRC, Basic Rules and Principles of International Humanitarian Law.

<sup>619</sup> ICRC, Development and Principles of International Humanitarian Law, 1986.

<sup>620</sup> López Díaz, Patricia, "Principios Fundamentales del Derecho Internacional Humanitario", 2009.

<sup>621</sup> ICRC, Customary Rules of International Humanitarian Law, XXVIII International Conference of the Red Cross and Red Crescent, December 2-6, 2003. [https://www.icrc.org/eng/assets/files/other/icrc\\_002\\_1103.pdf](https://www.icrc.org/eng/assets/files/other/icrc_002_1103.pdf).

<sup>622</sup> ICRC, Customary Rules of International Humanitarian Law, XXVIII International Conference of the Red Cross and Red Crescent, December 2-6, 2003. [https://www.icrc.org/eng/assets/files/other/icrc\\_002\\_1103.pdf](https://www.icrc.org/eng/assets/files/other/icrc_002_1103.pdf).

<sup>623</sup> See, ICRC, Treaties, States Parties and Commentaries, Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977.

## 1.1 Distinction

347. The Commission notes that this principle, in addition to being customary in nature, is set forth in Articles 48, 51.2, and 52.2 of Additional Protocol I, in respect of which no reservations have been entered. Thus, "Attacks" means "acts of violence against the adversary, whether in offense or in defense." Based on the principle of distinction, the Parties to the conflict shall at all times distinguish between the civilian population and combatants. Accordingly, attacks may only be directed at combatants and civilians must not be attacked.<sup>624</sup>

348. In the same vein, the prohibition on attacks against civilians is also stipulated in Protocol II, Amended Protocol II, and Protocol III of the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects (Convention on Certain Conventional Weapons - CCW) as well as in the Ottawa Convention, which prohibits anti-personnel landmines.<sup>625</sup> Moreover, as the Rome Statute of the International Criminal Court establishes, "Intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities" constitutes a war crime in international armed conflicts.<sup>626</sup>

349. The rules governing international humanitarian law prohibit conduct constituting indiscriminate attacks "which employ a method or means of combat the effects of which cannot be limited as required by international humanitarian law [...] and consequently, [...] are of a nature to strike military objectives and civilians or civilian objects without distinction."<sup>627</sup> Likewise, the jurisprudence of the International Criminal Tribunal for the Former Yugoslavia (hereinafter also referred to as "ICTY") has stated that "indiscriminate attacks, that is to say, attacks which strike civilians or civilian objects and military objectives without distinction, may qualify as direct attacks against civilians" and that they "are expressly prohibited by Additional Protocol I,"<sup>628</sup> a prohibition [that] reflects a well-established rule of customary law applicable in all armed conflicts."<sup>629</sup>

350. The principle of distinction is universally grounded in customary rules of international humanitarian law and therefore encompasses, *inter alia*: i) prohibition of acts or threats of violence the principal purpose of which is to terrify the civilian population; ii) proper identification of members of the armed forces in order to be able to show subsequently that persons not pertaining to that group could be classified as civilians; iii) protection of civilians against attacks; iv) distinction between civilian and military property; v) prohibition of indiscriminate attacks; and vi) prohibition of bombings that treat as a single military target several precise and clearly distinct military targets located in a city, town, village, or other zone in which there is an analogous concentration of civilians or civilian assets.<sup>630</sup>

351. In this connection, customary rules of international humanitarian law provide for the obligation of the parties in conflict to distinguish at all times between civilians and combatants. Attacks may only be directed against combatants. Civilians must not be attacked.

<sup>624</sup> Henkaerts, Jean Marie, Doswald Beck Louise, Customary International Humanitarian Law, Volume I, Rules, CICR, Buenos Aires, 2007, p. 3. [<https://www.icrc.org/eng/resources/documents/publication/pcustom.htm>].

<sup>625</sup> Protocol II of the Convention on Certain Conventional Weapons (1980), Article 3, paragraph 2; Amended Protocol II of the Convention on Certain Conventional Weapons (1996), Article 3, paragraph 7; Protocol III of the Convention on Certain Conventional Weapons (1980), Article 2, paragraph 1; Ottawa Convention (1997), preamble.

<sup>626</sup> Rome Statute of the International Criminal Court, Article 8, paragraph 2.

<sup>627</sup> Henkaerts, Jean Marie, Doswald Beck Louise, Customary International Humanitarian Law, Volume I, Rules, CICR, Buenos Aires, 2007, p. 40. Rule 12. [<https://www.icrc.org/eng/assets/files/other/customary-international-humanitarian-law-1-icrc-eng.pdf>]

<sup>628</sup> Article 50 of Protocol I of 1977, Additional to the Geneva Conventions of 1949 DEFINITION OF CIVILIANS AND CIVILIAN POPULATION establishes that: "1. A civilian is any person who does not belong to one of the categories of persons referred to in Article 4 A (1), (2), (3) and (6) of the Third Convention and in Article 43 of this Protocol. In case of doubt whether a person is a civilian, that person shall be considered to be a civilian [...]."

<sup>629</sup> ICTY, Case No. IT-96-29/1-T. "Prosecutor v. Stanislav Galic". Judgment of December 5, 2003. In Trial Chamber I of the ICTY, paragraph 57.

<sup>630</sup> Henkaerts, Jean Marie, Doswald Beck Louise, Customary International Humanitarian Law, Volume I, Rules, CICR, Buenos Aires, 2007, [<https://www.icrc.org/eng/resources/documents/publication/pcustom.htm>], pp. 9-52 Rules 2-13.

352. Likewise, those rules provide for prohibiting acts or threats of violence, the principal purpose of which is to spread terror among the civilian population. The ban on acts or threats of violence aimed at spreading terror among the civilian population is consistent with the broader prohibition in Article 33 of the IV Geneva Convention, which states that "all measures of intimidation or of terrorism are prohibited."<sup>631</sup>

353. Along those same lines, in the Blaskic case in 2000, the International Criminal Tribunal for the Former Yugoslavia defined civilians "as persons who are not or are no longer members of the Armed Forces."<sup>632</sup> Because civilians do not participate in armed conflicts, they must be protected during hostilities and may not be the targets of attacks by the armed forces intervening in those conflicts.

354. At the same time, a core aspect of the distinction principle has to do with the prohibition of indiscriminate attacks stipulated in customary rules of IHL. Those rules establish the following: a) Indiscriminate attacks are prohibited; b) Indiscriminate attacks are those: which are not directed at a specific military objective; which employ a method or means of combat which cannot be directed at a specific military objective; or which employ a method or means of combat the effects of which cannot be limited as required by international humanitarian law; and consequently, in each such case, are of a nature to strike military objectives and civilians or civilian objects without distinction; and c) Attacks by bombardment by any method or means which treat as a single military objective a number of clearly separated and distinct military objectives located in a city, town, village or other area containing a similar concentration of civilians or civilian objects are prohibited.

355. The IACHR stresses that this prohibition of indiscriminate attacks by bombardment includes the methods or means deployed against a town, village, or other area in which there is a similar concentration of civilians or civilian objects known as "area bombings."<sup>633</sup>

356. Furthermore, the protection to be afforded to civilians during conflicts goes beyond their bodily integrity and encompasses their property as well. Accordingly, the customary rules of international humanitarian law establish that the parties to a conflict shall at all times distinguish between civilian property and military targets, because attacks may only be directed at the latter.

357. In broad terms, the IACHR notes that, according to the Rome Statute of the International Criminal Court, "[i]ntentionally directing attacks against civilian objects, that is, objects which are not military objectives" constitutes a war crime in international armed conflicts.<sup>634</sup>

358. It also notes that the International Court of Justice affirmed, in its Advisory Opinion regarding nuclear weapons, that the distinction principle was one of the "cardinal principles" of international humanitarian law and one of the "inviolable principles of international customary law."<sup>635</sup>

359. The IACHR also takes into account that, under certain circumstances, even civilian objects could lose their entitlement to protection. Those circumstances may arise when, for example, a civilian object is used in such a way that it matches the definition of a "military target" according to the rules of IHL, and in that case may legitimately be attacked. This occurs in cases of "those objects which by their nature, location, purpose or use make an effective contribution to military action and whose partial or total destruction, capture or neutralization, in the circumstances ruling at the time, offers a definite military advantage."<sup>636</sup>

<sup>631</sup> IV Geneva Convention (1949), Article 33 (ibid. paragraph 476). The applicability of that provision to these rules is explained in: Yves Sandoz, Christophe Swinarski and Bruno Zimmermann, Comentario del Protocolo del 8 de junio de 1977 adicional a los Convenios de Ginebra de 1949 (Protocol II), ICRC and Plaza and Janés Editores Colombia, S.A., Santa Fe de Bogotá, Vol. II, 1998, paragraph Henkaerts, Jean Marie, Doswald Beck Louise, Customary International Humanitarian Law, Volume I, Rules, ICRC, Buenos Aires, 2007, p. 10. [<https://www.icrc.org/eng/resources/documents/publication/pcustom.htm>]

<sup>632</sup> ICTY, Blaskic case, Judgment, para. 751.

<sup>633</sup> See Additional Protocol I (1977), Article 51, paragraph 5, section a); and I/A Court H.R., Case of the Santo Domingo Massacre v. Colombia, Judgment of November 30, 2012, paragraphs 195 et seq.

<sup>634</sup> Rome Statute of the International Criminal Court, Article 8, paragraph 2.

<sup>635</sup> CIJ, Nuclear Weapons case, Advisory Opinion, 1996.

<sup>636</sup> Henkaerts, Jean Marie, Doswald Beck Louise, Customary International Humanitarian Law, Volume I, Rules, ICRC, Buenos Aires, 2007, p.29; Protocol II of the Convention on Certain Conventional Weapons (1980), Article 2, paragraph 4; Amended Protocol II of the Convention

## 1.2 Proportionality

360. In international humanitarian law, the principle of proportionality refers to a customary rule for both international and non-international armed conflicts, according to which "[l]aunching an attack which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated, is prohibited."<sup>637</sup> The aforementioned principle thus establishes a limitation that ordains that the use of force must not be disproportionate, but rather restricted to what is indispensable to achieve the military advantage sought.<sup>638</sup>

361. The principle of proportionality in attacks is also codified in treaties on the subject. In this regard, Protocol I prohibits "an attack which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated."<sup>639</sup>

362. In the same vein, the principle of proportionality in attacks is also mentioned in Amended Protocol II of the Convention on Certain Conventional Weapons.<sup>640</sup> Furthermore, according to the Rome Statute of the International Criminal Court, "[i]ntentionally launching an attack in the knowledge that such attack will cause incidental loss of life or injury to civilians or damage to civilian objects [...] which would be clearly excessive in relation to the concrete and direct overall military advantage anticipated" constitutes a war crime in international armed conflicts.<sup>641</sup>

## 1.3 Necessity

363. The principle of necessity is of longstanding in international humanitarian law, and is closely related to the principle of proportionality and the core goal of IHL of prohibiting unnecessary suffering in armed conflict. As the ICRC has set out in great detail through its work, the principle recognizes that armed force may be used when necessary, when lawful –meaning when not otherwise prohibited by international humanitarian law-- and when operationally required and justified to weaken the capability of the other party to the conflict.

364. The principle of necessity looks toward the lawful military goals of the conflict, while the principles of proportionality and precaution look toward humanitarian protections of civilians and noncombatants. As the ICRC has developed, the purpose of international humanitarian law is to strike a balance between these interests.

## 1.4 Precaution

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on Certain Conventional Weapons (1996), Article 2, paragraph 6; Protocol II of the Convention on Certain Conventional Weapons (1980), Article 1, paragraph 3; Second Protocol of the Convention for the Protection of Cultural Property in Time of Armed Conflict (Hague Convention, 1999), Article 1.f.

<sup>637</sup> Henkaerts, Jean Marie, Doswald Beck Louise, Customary International Humanitarian Law, Volume I, Rules, ICRC, Buenos Aires, 2007, p. 46. Rule 14. [<https://www.icrc.org/eng/assets/files/other/customary-international-humanitarian-law-i-icrc-eng.pdf>].

<sup>638</sup> See IAC<sup>HR</sup>, Third Report on the Situation of Human Rights in Colombia. Chapter IV, "Violence and violation of international human rights law and international humanitarian law." Doc. OEA/Ser. L/V/II.102. Doc. 9, rev. 1, February 26, 1999, para. 77-80. See, in addition: Report of the Commission of Inquiry on Lebanon pursuant to Human Rights Council Resolution S-2/1(A/HRC/3/2) of November 23, 2006, paragraph 147, and Final Report to the Prosecutor by the Committee Established to Review the NATO Bombing Campaign Against the Federal Republic of Yugoslavia, June 13, 2000, para.28, 48-50.

<sup>639</sup> Additional Protocol I (1977), Article 51, para. 5.b and Article 57, para. 2.a.iii.

<sup>640</sup> Protocol II of the Convention on Certain Conventional Weapons (1980), Article 3, para. 3.

<sup>641</sup> Rome Statute of the International Criminal Court, Article 8, paragraph 2.b.iv (*ibid.*, para. 5); see also Regulation No. 2000/15 of the United Nations Transitional Administration in East Timor (UNTAET), section 6, para. 1.b.iv.

365. Under international humanitarian law, the principle of precaution refers to a customary rule for international and non-international armed conflicts, according to which "[i]n the conduct of military operations, constant care must be taken to spare the civilian population, civilians and civilian objects" and "all feasible precautions must be taken to avoid, and in any event to minimize, incidental loss of civilian life, injury to civilians and damage to civilian objects."<sup>642</sup>

366. Along the same lines, the same source provides that "[e]ach party to the conflict must take all feasible precautions in the choice of means and methods of warfare with a view to avoiding, and in any event to minimizing, incidental loss of civilian life, injury to civilians and damage to civilian objects." It also provides that "[e]ach party to the conflict must do everything feasible to assess whether the attack may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated."<sup>643</sup>

367. The IACHR notes that the principle is codified in Article 57.1 of Additional Protocol I, in respect of which no reservations have been entered.<sup>644</sup> Likewise, in the *Kupreskic* case, International Criminal Tribunal for the Former Yugoslavia found that the requirement to take precautions in an attack was customary because it "specif[ied] and flesh[ed] out general pre-existing norms."<sup>645</sup>

368. For its part, the Inter-American Commission notes that in the context of international armed conflicts a natural consequence of the principle of precaution is the obligation of the States party to the conflict to take constant care and precautions to avoid or minimize the number of civilian casualties that could result from their actions during the conflict.

369. Along similar lines, the ICRC has underscored that many states have construed the obligation to take all "feasible" precautions as an obligation limited to precautions that are practicable or practically possible in practice, taking into account all the circumstances at the time, including humanitarian and military considerations.<sup>646</sup> Protocols II and III and Amended Protocol II of the Convention on Certain Conventional Weapons define "feasible" precautions in the same way.<sup>647</sup>

370. The IACHR likewise stresses that one of the obligations derived from the principle of precaution is that the parties to a conflict are required to do everything feasible to verify that the targets they plan to attack are in fact military targets.<sup>648</sup> Here the Commission notes that this obligation to do everything feasible to verify that targets to be attacked are military targets is established in Article 57.2.a of Additional Protocol I, a rule in respect of which no reservations have been entered.<sup>649</sup>

371. Along the same lines, the customary rules of IHL establish that "Each party to the conflict must take all feasible precautions in the choice of means and methods of warfare with a view to avoiding, and in any event to minimizing, incidental loss of civilian life, injury to civilians and damage to civilian objects." It is important to point out that this rule must be applied independently of the simultaneous application of the principle of proportionality.<sup>649</sup> In addition, the duty to take all feasible precautions in the choice of means and methods of warfare is established in Article 57.2.a.ii of Additional Protocol I.<sup>650</sup>

<sup>642</sup> Henkaerts, Jean Marie, Doswald Beck Louise, Customary International Humanitarian Law, Volume I, Rules, ICRC, Buenos Aires, 2007, p. 51. Rule 15. [<https://www.icrc.org/eng/assets/files/other/customary-international-humanitarian-law-i-icrc-eng.pdf>]

<sup>643</sup> Henkaerts, Jean Marie, Doswald Beck Louise, Customary International Humanitarian Law, Volume I, Rules, ICRC, Buenos Aires, 2007, pp. 56-58. Rules 17 and 18. [<https://www.icrc.org/eng/assets/files/other/customary-international-humanitarian-law-i-icrc-eng.pdf>].

<sup>644</sup> Additional Protocol I (1977), Article 57, para. 1.

<sup>645</sup> ICTY, *Kupreskic* case, Judgment, paragraph 524. [<http://www.icty.org/x/cases/kupreskic/tjug/en/kup-tj000114e.pdf>].

<sup>646</sup> Henkaerts, Jean Marie, Doswald Beck Louise, Customary International Humanitarian Law, Volume I, Rules, ICRC, Buenos Aires, 2007, p. 67. [<https://www.icrc.org/eng/resources/documents/publication/pcustom.htm>].

<sup>647</sup> Protocol II of the Convention on Certain Conventional Weapons (1980), Article 3, para. 4; Protocol III of the Convention on Certain Conventional Weapons (1980), Article 1, para. 5; Amended Protocol II of the Convention on Certain Conventional Weapons (1996), Article 3, para. 10.

<sup>648</sup> Additional Protocol I (1977), Article 57, para. 2.a.

<sup>649</sup> Henkaerts, Jean Marie, Doswald Beck Louise, Customary International Humanitarian Law, Volume I, Rules, ICRC, Buenos Aires, 2007, p. 57. [<https://www.icrc.org/eng/resources/documents/publication/pcustom.htm>].

<sup>650</sup> Additional Protocol I (1977), Article 57, para. 2.a.ii.

372. For its part, the ICRC points out that examples of the application of this rule include considerations about the timing of attacks, avoiding combat in populated areas, the selection of means of warfare proportionate to the target, and the use of precision weapons and target selection.<sup>651</sup> In addition, IHL customary rules set out a specific requirement with respect to target selection.

373. Moreover, those same rules establish that "Each party to the conflict must do everything feasible to assess whether the attack may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated." The duty to do everything feasible to assess whether the attack may be expected to cause excessive incidental damage is set forth in Article 57.2.a.iii of Additional Protocol I.

374. In ever greater detail, it has been spelled out that "[e]ach party to the conflict must do everything feasible to cancel or suspend an attack if it becomes apparent that the target is not a military objective or that the attack may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated"<sup>652</sup> This obligation to do everything feasible to cancel or suspend an attack if it becomes apparent that the target is not a military objective or that the attack may be expected to cause excessive incidental damage is set forth in Article 57.2.b of Additional Protocol I.

375. Similarly, and with a view to maximizing all chances of avoiding injury to civilians or civilian objects, the IACR underscores that "[e]ach party to the conflict must give effective advance warning of attacks which may affect the civilian population, unless circumstances do not permit." This obligation to give effective advance warning of any attack that may affect the civilian population is a longstanding rule of customary international law that was already recognized in the Lieber Code, the Brussels Declaration, and the Oxford Manual.<sup>653</sup> It was codified for the first time in The Hague Regulations and reformulated in Article 57.2.c of Additional Protocol I, to which no pertinent reservations have been entered.<sup>654</sup>

376. The Commission notes that, complementing the protection for civilians in international armed conflicts, IHL Customary Rule 21 establishes that "When a choice is possible between several military objectives for obtaining a similar military advantage, the objective to be selected must be that the attack on which may be expected to cause the least danger to civilian lives and to civilian objects." Accordingly, the IACR establishes, in light of that requirement, that, when a choice is possible, states have an obligation to choose the military objective where an attack may be expected to cause the least danger to civilians.<sup>654</sup>

377. Further, "[t]he parties to the conflict must take all feasible precautions to protect the civilian population and civilian objects under their control against the effects of attacks." This duty of the parties to a conflict to take all feasible precautions to protect the civilian population and civilian objects is established in Article 58.c of Additional Protocol I.

378. The Inter-American Commission notes that the ICRC has established that this practice should be read together with the extensive practice on the prohibition of the use of human shields. The deliberate violation of the obligation to take all feasible precautions against the effects of attacks is often related to the use of human shields. International case law has confirmed the obligation under international human rights law to take positive steps to protect life.

<sup>651</sup> Henkaerts, Jean Marie, Doswald Beck Louise, Customary International Humanitarian Law, Volume I, Rules, ICRC, Buenos Aires, 2007, p. 58. [<https://www.icrc.org/eng/resources/documents/publication/pcustom.htm>].

<sup>652</sup> Lieber Code, Article 19 (*ibid.* para. 424); Brussels Declaration (1874), Article 16 (*ibid.* para. 425); Oxford Manual (1880), Article 33 (*ibid.* para. 426).

<sup>653</sup> Regulations of The Hague (1907), Article 26; Additional Protocol (1977), Article 57, paragraph 2.c.

<sup>654</sup> On this, the ICRC points out that there is only one instance of apparently contrary practice. In response to an ICRC memorandum on the applicability of international humanitarian law in the Gulf region, the United States denied that this rule was customary but then restated the rule and recognized its validity. Henkaerts, Jean Marie, Doswald Beck Louise, Customary International Humanitarian Law, Volume I, Rules, ICRC, Buenos Aires, 2007, p. 67. [<https://www.icrc.org/eng/resources/documents/publication/pcustom.htm>].

379. Accordingly, the Commission stresses that the practice of states indicates there is no ban on attacking military targets if the other party to the conflict does not take due precautions or deliberately uses civilians as shields against military operations. Nevertheless, the Commission observes that in such cases the attacking party remains bound in all circumstances to take appropriate precautions in the attack and must respect the principle of proportionality, even though the other party to the conflict violates international humanitarian law.

380. The ICRC stresses that practice has shown that some of the measures that can be taken to spare the civilian population and civilian objects under the control of a party to the conflict are: the construction of shelters, digging of trenches, distribution of information and warnings, withdrawal of the civilian population to safe places, direction of traffic, guarding of civilian property and the mobilization of civil defense organizations.<sup>655</sup>

381. On the other hand, with respect to how such phrases as "to the maximum extent feasible" are to be interpreted, the IACtHR notes that the Rapporteur of the Working Group of the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts, which finally adopted the Additional Protocols, pointed out that the inclusion of that language reflected the concern of small and densely populated countries which would find it difficult to separate civilians and civilian objects from military objectives and that even large countries would find such separation difficult or impossible to arrange in many cases.<sup>656</sup>

382. The Inter-American Commission considers that in those cases in which demographic changes cause military bases to be located within or near cities where this was originally not the case, it is even more important that States party to the conflict comply with IHL Customary Rule 24, which establishes that each party to the conflict must, to the extent feasible, remove civilian persons and objects under its control from the vicinity of military objectives.<sup>657</sup> It should be noted that this duty of each party to the conflict, to the extent feasible, to remove civilian persons and objects under its control from the vicinity of military objectives is also set forth in Additional Protocol I [Article 58.a].

383. For its part, the ICRC has reminded parties to both international and non-international armed conflicts of their duty, to the extent feasible, to remove civilian persons and objects under their control from the vicinity of military objectives.<sup>658</sup>

## 2. Analysis of the Case

384. Based on the above, the Commission will analyze whether the deaths and physical and psychological injuries of the alleged victims were attributable to the United States and in violation of their rights under the American Declaration, taking into account applicable principles of international humanitarian law. In this regard, the Commission notes that the State's defense is based on two claims: on the one hand, that it is not proven that it was United States agents who caused the deaths or injuries of many of the alleged victims and, on the other, that it took all necessary steps to ensure that its actions in connection with the military intervention were consistent with international humanitarian law.

385. Accordingly, the IACtHR is called to establish whether the deaths and injuries were caused by the conduct of the United States agents, whether by act or omission, and, in analyzing the compatibility of the conduct of those agents with the American Declaration, whether the international humanitarian law principles

<sup>655</sup> Henkaerts, Jean Marie, Doswald Beck Louise, Customary International Humanitarian Law, Volume I, Rules, ICRC, Buenos Aires, 2007, p. 70. [<https://www.icrc.org/eng/resources/documents/publication/pcustom.htm>].

<sup>656</sup> Steering Committee for Human Rights (CDDH), Report to Committee III on the work of the Working Group, paragraph 65; Henkaerts, Jean Marie, Doswald Beck Louise, Customary International Humanitarian Law, Volume I, Rules, ICRC, Buenos Aires, 2007, p. 71. [<https://www.icrc.org/eng/resources/documents/publication/pcustom.htm>].

<sup>657</sup> Henkaerts, Jean Marie, Doswald Beck Louise, Customary International Humanitarian Law, Volume I, Rules, ICRC, Buenos Aires, 2007, p. 74. [<https://www.icrc.org/eng/resources/documents/publication/pcustom.htm>].

<sup>658</sup> ICRC, Memorandum on Respect for International Humanitarian Law in Angola, para. 180 and Memorandum on Compliance with International Humanitarian Law by the Forces Participating in Operation Turquoise, para. 181.

described above were observed in connection with the military intervention and concrete facts alleged in the instant case.

386. The Commission observes, in general terms, that the United States military intervention in Panama was widely questioned, not only with respect to its legitimacy under international law but also with regard to the commission of violations of human rights and of international humanitarian law in connection with that intervention.

387. Considering that the core issue to be resolved by the IACtHR in the instant case has to do with the legality of the use of lethal force -- resulting in death and injuries -- during Operation Just Cause, the Commission will first recall the standards on the burden of proof that apply in relevant Inter-American case law.

388. In connection with the individual case system, the Commission has emphasized that the defense of states cannot rest on the impossibility of the petitioner(s) to produce evidence that only the state has access to or that cannot be obtained without the state's collaboration. This is particularly crucial when the difficulties encountered in producing evidence stem from failure by the state in question to diligently investigate the facts in order to fully clarify the circumstances and any corresponding responsibilities.

389. More specifically, with regard to the use of lethal force, the Commission has repeatedly pointed out that once it has been established that state agents used lethal force against civilians, the burden of proof is reversed, meaning that it is up to the State concerned to provide a satisfactory and convincing explanation of what happened, so as to respond to and overcome the allegations of international liability. That reversal of the burden of proof is based on the fact that it is incumbent upon the state, *ex officio*, to investigate what happened; that duty may not be made dependent on other initiatives by those involved. That requirement is not diminished by the fact that this is a case of the use of force in connection with armed conflict. In such contexts, the content of the "satisfactory and convincing explanation" needs to be related to applicable principles of international humanitarian law, but the burden of providing it still falls to the State using the lethal force.

390. Consequently, in the instant case, for the State's explanation to be deemed satisfactory and convincing, it must: i) result from diligent investigation that meets Inter-American standards on access to justice; ii) make reference to actions of a preventive nature, as well as those concomitant and subsequent to the use of lethal force;<sup>659</sup> and iii) in cases of armed conflict, address applicable international humanitarian law principles, especially the principles of distinction, proportionality, necessity, and precaution.

391. As regards the first criterion, the Commission stresses that, as will be analyzed below in the section on the right to justice, the United States has not provided adequate information to clarify the actions carried out by its agents during the execution of Operation Just Cause. As regards the second and third criteria, the Commission observes that the State merely argued in general terms that the aforementioned operation had been designed in consonance with the principles of international humanitarian law, without providing the specifics that the Commission would need to analyze in order to determine whether, in the design of the Operation, necessary and sufficient steps were taken to ensure that the intervention was conducted in a manner that adhered strictly to international humanitarian law. Nor does the information provided by the State make it possible to analyze whether the concrete actions taken with regard to both general aspects of the deployment of the armed forces and individual (concomitant and subsequent) acts by State agents during the Operation complied with the aforementioned normative framework, in light of the facts submitted to the Commission.

392. Consequently, the Commission concludes that, in this respect, the State did not comply with its obligation to provide a satisfactory and convincing explanation of the manner in which, in its design and

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<sup>659</sup> See generally, I/A Court HR. Case of Landaeta Mejías Brothers et al v. Venezuela. Preliminary Objections, Merits, Reparations, and Costs. Judgment of August 27, 2014. Series C No. 281, para. 124; I/A Court HR. Case of Nadege Dorzema et al. v. Dominican Republic. Merits, Reparations, and Costs. Judgment of October 24, 2012, Series C No. 251, par. 78; and IACtHR. Report No. 90/14, Case No. 11.442. Merits, Luis Jorge Valencia Hinojosa. (Ecuador). November 4, 2014. para 189.

execution, the military intervention was compatible with its international obligations vis-à-vis both international human rights law and international humanitarian law.

393. The State's failure to comply with this obligation is grounds for according probative value to the descriptions provided by the alleged victims and/or their family members with respect to both the participation of US agents in the vast majority of incidents and the circumstances surrounding the facts of the case. This is because the State failed to disprove the allegations by providing a satisfactory and convincing explanation, as detailed above.

394. Taking, therefore, the descriptions by the alleged victims and/or their family members into account, the Commission observes, first, that the majority of the deaths and injuries occurred precisely in connection with armed actions by United States forces during the military intervention, which included bombings and shooting from the air, the use of tanks on the ground, and confrontations and combat scenarios in which the victims were civilians or in a very few instances, noncombatants. Within that group, the IACHR highlights the 9 people who lost their lives and the 20 who were injured as the result of bombings and a variety of weapons used from the air or by shots fired by tanks on the ground. There were also 21 people killed and 3 wounded as a direct consequence of fires because they were in the vicinity of armed confrontations or combat.

395. In all these cases, the overwhelming majority of the victims killed or wounded were Panamanians with regard to whom there is no indication -- or information provided by the State -- that they were participating in hostilities. On the contrary, at the time they were attacked, most of the alleged victims were in their homes or workplaces, or on the street in contexts which appear to preclude there having been engaged in clashes or hostile acts. Consequently, these were civilians or in just a very few cases noncombatants entitled to special protection under international humanitarian law by the standards described above (based on the distinction principle, in particular).

396. The State did not deny having used bombs and other weapons that could have indiscriminate impact on the right to life and personal integrity of civilians in civilian areas. On the contrary, multiple sources have verified that Operation Just Cause began with an attack on various strategic military targets located within heavily populated civilian areas using those methods.

397. The State did not provide complete and detailed information regarding steps taken to provide advance warning of the various attacks. Some statements indicate that the start of the operation was announced by radio and television stations. However, the information available indicates that the announcements were made in English and were broadcast late the night the military action commenced. Nor has the State provided detailed information about those or other warnings that would show whether those notifications were adequate, and whether any indication was given about the risks to civilians posed by the invasion, or what recommendations if any were given to them to evacuate or shelter in place.

398. Several victim statements referred to announcements made by loudspeaker minutes prior to the use of bombs and heavy weapons. However, that information suggests the announcements were highly inadequate as they would have been made late at night, many would not have heard or been able to understand them, and in any case because they were made immediately prior to operations, there would have been no time for those affected to escape, take shelter or otherwise protect themselves. Even in respect of those people who might have heard such warnings, the Commission has no information whatsoever about measures adopted to ensure effective evacuation. Accordingly, regarding these announcements reportedly made through loudspeakers, the Commission lacks even the most basic information that would be necessary to establish that they met the applicable requirements aimed at the protection of civilians. In this regard, the Commission places significant weight on the information provided about the number of civilians killed and injured in these attacks, the location, and the circumstances, as primary and probative evidence.

399. Quite apart from this particular point about prior warning and concrete evacuation arrangements, in general the State did not provide information about any concrete measures planned that would make it possible to analyze whether they were adequate and sufficient, by international humanitarian law standards, to prevent deaths and injuries. The State maintained that while its forces were aware of the

humanitarian concerns of civilians during armed conflict, " civilian casualties and suffering were regrettable but inevitable in combat."<sup>660</sup>

400. The IACHR takes the view that international humanitarian law requires that, in the planning prior to such an operation and at all times during the operation, combatants must accord special priority to the situation of the civilian population over that given to military objectives. The State must take all feasible steps to protect the life and personal integrity of civilians. The Commission concludes that the State did not adopt sufficient measures to give adequate advance warning, allow civilians to evacuate safely, or adopt measures to prevent or respond to the situation of those who were placed at imminent risk. While international humanitarian law takes into account the importance of military advantage, it is clear in indicating that such advantage may not be achieved by disregarding or disrespecting the principles of distinction and proportionality in circumstances of risk of civilian injury and loss of life.

401. The United States has argued that the impact of the aforementioned actions on civilians and civilian objects was the direct result of the Panamanian military regime's decision to locate its military facilities in the vicinity of the civilian population. It argued that United States troops had complied strictly with the relevant rules of combat and humanitarian law and that its forces had often been obstructed, due to the inhumane practice of the forces under Noriega's command of locating their military positions in or near civilian residential areas in violation of the international laws governing armed conflicts.

402. The IACHR underscores the customary rule of international humanitarian law that provides that the obligation to respect and enforce international humanitarian law "does not depend on reciprocity."<sup>661</sup> Therefore, irrespective of the role of the Panamanian authorities or troops in these events and their responsibility, the United States forces are duty-bound to comply with their obligations, first as a combatant party and then as an occupying force in the conflict. The Commission also stresses the familiarity of the State's armed forces with the location of certain strategic points in areas densely populated by civilians due to its military presence in Panamanian territory since before the signing of the Torrijos-Carter Treaties. That should have made it possible to adjust the means and methods of warfare in planning and executing the Operation. In addition, the State failed to show that the manner of execution of the Operation and the methods used abided by not just the principle of distinction but also the principles of necessity, proportionality, and precaution. In the Commission's view, the above considerations lead to the conclusion that the way the operation was conducted failed to comply with the basic principles of distinction, necessity, proportionality and precaution.

403. These determinations regarding noncompliance with the aforementioned principles are applicable to the 9 deaths and 18 situations of physical injuries caused by the use of bombs and other weapons that in fact had an indiscriminate impact on the civilians who were at home, at work, or in the streets in circumstances in which there is no evidence they engaged in any type of hostilities.

404. Regarding these facts, the Commission recalls that, as pointed out in the background section, one of the general criticisms leveled at the Operation had to do with the disproportionate magnitude of the attack. That disparity vis-à-vis the real threat posed by the declaration of war by the Panamanian Government is shown in the background information, which indicates that in a matter of hours the United States troops had achieved significant control of the military targets it had identified as strategic. From the information available, it does not appear that resistance by Panamanian troops significantly hampered that assumption of control by United States forces. That control was evidenced in various circumstances, such as the swearing in of a new President on the same day as the intervention, the setting up of checkpoints in multiple locations, and the absence of any concrete information regarding deaths of U.S. troops in a proportion suggesting that the Panamanian Armed Forces had put up a sustained fight.

405. The foregoing is relevant because from those contextual factors it may be concluded that the broadest and deepest use of force was that carried out by US forces. In those cases in which there is little to no information about the precise circumstances in which lethal force was used, but the information about the

<sup>660</sup> Brief of final observations made by the state received on March 29, 1996, p. 17.

<sup>661</sup> Henkaerts, Jean Marie, Doswald Beck Louise, Customary International Humanitarian Law, Volume I, Rules, ICRC, Buenos Aires, 2007, Rule 140 [<https://www.icrc.org/eng/resources/documents/publication/pcustom.htm>].

casualties is clear, given the lack of investigation and clarification, and given the consequent absence of allegations or information to the contrary, the Commission considers that given the applicable context and burden of proof, it may infer the US troops were involved by act or omission.

406. At the same time, with respect to a group of 20 people killed and 4 wounded going through or in the vicinity of U.S. checkpoints, the Commission stresses, first, that the State did not contest the existence of such checkpoints, nor that Panamanians could have been killed or wounded by soldiers manning those checkpoints. However, as with the other already mentioned events, the State failed to demonstrate that it investigated all the deaths and injuries allegedly caused under those circumstances. From the descriptions provided by the alleged victims and/or their family members which, as indicated above, have probative value in the instant case, there are no indicia that the victims were combatants or participating in hostilities, or that they posed a real or imminent threat to the personnel manning those checkpoints, as they went through or close by them. Consequently, based on the information available, the Commission finds it reasonable to infer that the use of force in such cases violated the principles of distinction, necessity, proportionality and precaution.

407. In one of these cases reference was made to the existence of a grenade in the car. Nevertheless, apart from that specific reference, which implies the need to assess that case as possibly having taken place in the context of hostilities, the Commission takes into account that an investigation was conducted in the United States. However, the information provided in witness declarations filed before the Commission indicates that the passengers in that vehicle had been neutralized at the time of the shooting. Given the contradictions, the information provided before the Commission is insufficient to demonstrate how or why the use of force against that person was necessary and proportional to the risk he supposedly posed. Furthermore, the IACHR takes into account the inconsistencies between witnesses in the investigation conducted by the Panamanian Public Prosecutors' Office (*Ministerio Público*) and the U.S. soldiers in relation to the explosion of a grenade and the situation in which those in the present case who were killed were found. Those inconsistencies merited further investigation into the facts.

408. The Commission takes note of the criterion developed by the European Court of Human Rights (hereinafter "European Court"), in the case of Pisari v. the Republic of Moldova and Russia, regarding the lethal use of force by the State at a checkpoint. In that judgment, when analyzing the justification of the use of lethal force as a last resort to avert "a very clear and imminent danger posed by the car driver in the event of his being allowed to escape,"<sup>662</sup> the Court stated that it did not consider, in connection with the facts, "that the level of the threat required that he had to be stopped immediately by gunfire."<sup>663</sup>

409. Accordingly, the European Court considered that there was no obvious indication of danger, even though the driver had already gone through three other checkpoints without stopping. It therefore found that the use of lethal force against the victim was unjustified. In its analysis, the Court included and assessed as determinants: the availability of alternative means of stopping the car without recourse to lethal force, the lack of appropriate equipment at the checkpoint for immobilizing cars, the automatic recourse to lethal force, and the absence of an effective investigation which could have cast a different light on these matters, over and above the testimonies of those involved.<sup>664</sup> It should be pointed out that the case addressed the responsibility of the state for actions taken by a Russian soldier at a peace-keeping checkpoint in Moldova, which resulted in the death of a young man, Vadim Pisari. The checkpoint in question, manned by Russian soldiers, was located in a security zone established following an agreement to end the military conflict in the Transdniéster region of Moldavia in 1992.

410. Along similar lines, the IACHR considers that the US did not point to factors justifying a need to deploy lethal force in connection with the facts described at the checkpoints. Nor did it submit information indicating that sufficient preventive and planning measures had been adopted to train soldiers to assess the existence of a clear and imminent threat justifying the use of lethal force or to provide the checkpoints and soldiers with alternatives to the use of lethal force. The IACHR also stresses that, with regard to the group of 20

<sup>662</sup> ECHR. Case of Pisari v. the Republic of Moldova and Russia. Application No. 42139/12. Judgment of October 19, 2015, paragraph 55.

<sup>663</sup> ECHR. Case of Pisari v. the Republic of Moldova and Russia. Application No. 42139/12. Judgment of October 19, 2015, paragraph 56.

<sup>664</sup> ECHR. Case of Pisari v. the Republic of Moldova and Russia. Application No. 42139/12. Judgment of October 19, 2015, paragraph 57.

persons killed and 4 injured, there are no obvious indications that any of them posed a clear and imminent threat; that the State used alternative methods to neutralize any danger; or that serious and independent investigations have been undertaken ex officio to clarify what happened and garner evidence. Neither the necessity nor the proportionality of the use of the force was demonstrated, in settings in which individuals were transporting persons and were, with the possible exception referred to above, unarmed.

411. In light of the above, the Commission considers that there are sufficient grounds to conclude that the United States failed to demonstrate that, in the design and execution of Operation Just Cause, it complied with its international obligations under the American Declaration, interpreted in the light of relevant principles of international humanitarian law. Accordingly, the Commission establishes its international responsibility for violation of the rights to life and personal integrity and security set forth in Article I of the American Declaration to the detriment of persons who lost their lives or were injured in the circumstances analyzed in the foregoing paragraphs (See Annex 1 to this Report on the Merits). The Commission observes that several of the victims who died or were physically injured were children at the time. Accordingly, with regard to these children, the State also violated Article VII of the Declaration.

412. The Commission draws attention to the group of three people whose whereabouts are unknown, according to information in the case file, and their family members have been unable to find and provide proper burial for their remains. Regarding this group, the Commission notes the information in the case file suggesting that, while it has not been possible to find the remains, two of them lost their lives. In the other case, no information at all is available. Given the context and circumstances of these disappearances, the IACHR considers that they should be included in the applicable considerations regarding the violation of the right to life.

#### **D. Right to Property**

413. Article XXIII of the American Declaration establishes that "[e]very person has a right to own such private property as meets the essential needs of decent living and helps to maintain the dignity of the individual and of the home."

414. In connection with this article, the IACHR points out that the American Declaration adopts a broad concept of personal property which comprises, among other aspects, the use and enjoyment of "property," defined as those material objects which are susceptible to being possessed, as well as any rights which may be part of a person's assets. Moreover, it notes that this concept comprises all movable and immovable assets, tangible and intangible elements, and any other immaterial object that could have value.<sup>665</sup> It likewise establishes that this right extends to a certain set of pecuniary assets, such as those resulting from business dealings.<sup>666</sup>

415. Accordingly, it is worth pointing out that the right to property protects the right to use and enjoy personal assets without arbitrary interference by the State,<sup>667</sup> so that it includes the right to receive compensation when that right is impaired or denied.<sup>668</sup>

416. Along the same lines, it should be noted that the right to property set forth in Article XXIII of the American Declaration is not an absolute right but one subject to legitimate limitations related to matters of public utility or the interests of society, in cases and matters established by law in which a fair balance needs to be struck between the individual right and the public interest.<sup>669</sup>

<sup>665</sup> IACHR, Report No. 61/11, Case No. 12.416, Santo Domingo Massacre v. Colombia.

<sup>666</sup> ECHR. Case X. v. Germany, Application No. 7705/76. Judgment of July 5, 1977.

<sup>667</sup> ECHR. Case Marckx v. Belgium, Application no. 6833/74, Judgment of June 13, 1979.

<sup>668</sup> ECHR. Case of The Holy Monasteries v. Greece. Application No. 10/1993/405/483-484. Judgment of November 21, 1994.

<sup>669</sup> ECHR. Case of James v. the United Kingdom, Application No. 98/1986, para. 46.

417. As already pointed out, in the instant case the Commission deems it useful and appropriate to interpret the scope of Article XXIII of the American Declaration using as *lex specialis* international humanitarian law and its customary rules regarding protection for victims of international armed conflicts.

418. Accordingly, as indicated in previous sections, one of the customary rules of IHL provides that "the parties to a conflict shall at all times distinguish between civilian property and military targets, because attacks may only be directed at the latter. Civilian objects must not be attacked." It is also explained that civilian objects are all objects that are not military objectives.

419. To analyze a possible impairment to the right to property in this context, the Commission understands that the first step is to perform a detailed analysis of: a) the nature of the allegedly damaged asset; b) the use to which it was being put; and c) the due diligence and/or means used by the State or attacking force to avoid the alleged impairment.

420. From the proven facts of the case, the IACtHR notes that, in the 152 petitions received in relation to alleged violations of the right to personal property, the assets allegedly damaged were homes, buildings, movable property such as cars, and both movable and immovable workplace-related assets. That being so, the Commission stresses that, based on the information available, there is no indication that these assets were used for military purposes in connection with the conflict. Therefore, the Inter-American Commission concludes that the assets allegedly damaged due to the actions undertaken by the State's Armed Forces were civilian objects which, under IHL and its customary rules, are protected and therefore should not be attacked.

421. That said, the Commission will now analyze the circumstances under which they were allegedly damaged. Here the IACtHR reiterates that the customary rules of IHL prohibit "attacks by bombardment by any method or means which treats as a single military objective a number of clearly separated and distinct military objectives located in a city, town, village or other area containing a similar concentration of civilians or civilian objects." Similarly, they prohibit "an attack which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated."

422. The Commission also takes note of the customary rule of IHL that establishes that "In the conduct of military operations, constant care must be taken to spare the civilian population, civilians and civilian objects. All feasible precautions must be taken to avoid, and in any event to minimize, incidental loss of civilian life, injury to civilians and damage to civilian objects."

423. In light of the above, the IACtHR notes that, pursuant to the principle of distinction, the State had an obligation to direct its military attacks against Panamanian forces and objects, not civilian objects, including civilian objects in the vicinity of the military objectives and/or zones.

424. According to the information in the case file, civilian objects were severely damaged by the impact of explosives, such as mortar shells or bombs, on December 20, 1989, in various parts of Panama City, including Viejo Veranillo, Los Andes, and San Miguelito. Likewise, the information provided by the parties indicates that in Ciudad de Colón civilian objects were damaged due to the use of explosives and by fires. The homes of numerous victims, along with their belongings, were destroyed. Similarly, in the Patio Pinel building complex, U.S. soldiers were present with tanks, helicopters, and weapons, causing damage to infrastructure. As indicated above, the US has not alleged, nor does the case file contain any indication that such personal property was being used for military purposes by the PDF or other forces hostile to the US during the invasion.

425. Along the same lines, the Commission notes that an especially badly damaged area was El Chorrillo which, because of its proximity to the Military High Command barracks, bore the brunt of heavy bombardment and clashes during the night of December 19/20, 1989 between members of the Panamanian Defense Forces and the Armed Forces of the United States. It transpires from the proven facts the United States

Armed Forces deployed weapons, tanks, helicopters, and airplanes. It also parachuted troops into the area and used explosives.

426. The petitioners provided technical information showing that 76.85%<sup>670</sup> of the El Chorrillo district was damaged by a fire triggered by U.S. soldiers looking for General Noriega. The information in the case file also shows that as a result of that fire homes were destroyed and assets lost that the victims needed for their work, thereby damaging their incomes and diminishing their standard of living.

427. On this matter, the IACHR also draws attention to the predictability of the fire in a district full of wooden homes and buildings and hence the obligation to adapt the tactics and means of warfare in order to avoid disproportionate loss of lives, personal integrity, and property of the civilians living in El Chorrillo. In that regard, the Commission finds that the US violated the principle of precaution in the planning and execution of the military operation, due to the disproportionate use of explosive weapons in connection with the attacks on the Central Military Barracks located in an area densely populated by civilians, quite apart from the existence of buildings made of wood which helped spread the fire.

428. From all of the above, the Commission concludes that the proven facts indicate that the Armed Forces of the United States did not adequately distinguish between civilian objects and military objectives. Moreover, the Commission notes that the State used the indiscriminate bombing technique in areas in which it knew with certainty that civilian objects abounded, without taking the necessary precautions to ensure that they were not hit, thereby contravening applicable customary laws. The IACHR also observes that the Armed Forces directly attacked objects that were not military targets and/or did not represent concrete military advantages. The Commission therefore considers that during Operation Just Cause the Armed Forces of the State disproportionately damaged civilian objects in the aforementioned districts, especially severely in the case of El Chorrillo.

429. The IACHR establishes that in connection with Operation Just Cause civilian objects were damaged in contravention of applicable rules. That included the destruction of homes and of personal property inside them. It also draws attention to the fact that, as a result of that damage, the persons holding title to those homes have over time seen their right to use and enjoy their property impaired.<sup>671</sup>

430. The Commission further establishes that the destruction and/or loss of assets needed for the victims to carry out their work in the El Chorrillo district as a result of the actions taken by the Armed Forces of the United States directly impaired their property and their livelihoods.<sup>672</sup> Moreover, because of the circumstances surrounding those events and especially if one takes into account the vulnerability of many of the victims that they themselves describe and the time they spent without a home of their own and in precarious conditions, the damage done to their property caused even greater hardship.

431. In light of the above, the Commission establishes that the disproportionate damage caused by the Armed Forces of the United States to movable and, immovable property, as well as other economic civilian assets in Panama City, Viejo Veranillo, Los Andes, San Miguelito, the Patio Pinel complex, and especially in El Chorrillo, constituted a violation of the right to personal property proclaimed in Article XXIII of the American Declaration, for which the State is responsible. The individual victims of those violations are listed in Annex 2 of this report on the merits.

## **E. Right to Justice, Truth, and Reparation**

### **1. General Considerations**

<sup>670</sup> Permanent Peoples' Tribunal. Architectural aspects of the impact of the invasion in the El Chorrillo district, January 8, 1991. Annex to the Commissioner's Notebook presented by the petitioning party.

<sup>671</sup> ECHR, Case of James v. the United Kingdom, Application No. 98/1986; and ECHR, Case of Cyprus v. Turkey, Application no. 25781/94. Judgment of May 10, 2001.

<sup>672</sup> ECHR, Case X. v. Germany, Application No. 7705/76. Judgment of July 5, 1977.

432. In relation to the instant case, Article XVIII of the American Declaration upholds the right to justice as follows:

Every person may resort to the courts to ensure respect for his legal rights. There should likewise be available to him a simple, brief procedure whereby the courts will protect him from acts of authority that, to his prejudice, violate any fundamental constitutional rights.

433. On the right to justice proclaimed by the American Declaration, the IACHR has repeatedly recognized that this right is similar in scope to the right to judicial protection established in Article 25 of the American Convention on Human Rights. These articles encompass the right of every person to resort to a court when any of his or her rights have been violated and the right to a judicial investigation by a competent, impartial, and independent court in order to ascertain whether the right was violated and if so to uphold the right to reparation for the damage inflicted.<sup>673</sup>

434. According to inter-American case law, in order to satisfy the right to justice in cases such as this, the State has to demonstrate that it conducted an immediate, exhaustive, serious, and impartial investigation, in which each act was geared to "a specific purpose, ascertaining the truth and the investigation, prosecution, arrest, trial, and, where applicable, punishment of those responsible for the facts."<sup>674</sup>

435. In light of conclusions set out thus far in the present report, the Inter-American Commission considers it important to recall that the right to truth has arisen in response to the failure to investigate, prosecute and punish in many cases of grave human rights violations and breaches of IHL by states.<sup>675</sup> Accordingly, even though the right to truth is not explicitly included in inter-American human rights instruments, the IACHR has determined its content and the consequent obligations of states by conducting a comprehensive analysis of a series of relevant rights established in the American Declaration of the Rights and Duties of Man.<sup>676</sup>

436. The IACHR has recognized that the right to truth is a just expectation that the State must satisfy for victims of human rights violations and their family members.<sup>677</sup> In that sense, it entails the obligation of states to clarify and investigate violations and bring to trial and punish those responsible for grave violations of human rights, so that victims and their family members can know the truth about the acts constituting those grave violations of human rights and the identity of those taking part in them.<sup>678</sup>

437. Along the same lines, the Commission and the Inter-American Court of Human Rights have maintained that this right is directly related to the rights to due process guarantees and judicial protection, established in Articles XVIII and XXIV of the American Declaration as well as in Articles 8 and 25 of the American Convention,<sup>679</sup> inasmuch as both rights are "fundamental" for judicial determination of the facts and circumstances surrounding the violation of a basic right.<sup>680</sup> The right to truth is considered a fundamental component of the right to justice and the right to reparation.

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<sup>673</sup> IACHR Report No. 71/15. Case No. 12.879. Merits. Vladimir Herzog et al. (Brazil). October 28, 2015, par. 192; IACHR, Report No. 40/04, Case No. 12.053, Mayan Indigenous Community (Belize), Annual Report of the IACHR, 2004, par. 174; IACHR, Report No. 54/01, Case No. 12.051, Maria Da Penha Fernandes (Brazil), April 16, 2001, par.37.

<sup>674</sup> IACHR, Report No. 55/97, Merits. Juan Carlos Abella et al. (Argentina), November 18, 1997, par. 412.

<sup>675</sup> IACHR. Right to the Truth in the Americas OEA/Ser.L/V/II.152 Doc.2. August 13, 2014, par.4.

<sup>676</sup> IACHR. Right to the Truth in the Americas OEA/Ser.L/V/II.152 Doc.2. August 13, 2014, par.53.

<sup>677</sup> IACHR. Right to the Truth in the Americas OEA/Ser.L/V/II.152 Doc.2. August 13, 2014, par.75.

<sup>678</sup> IACHR. Right to the Truth in the Americas OEA/Ser.L/V/II.152 Doc.2. August 13, 2014, par. 70. See also, *inter alia*, IACHR, Report No. 1/99, Case No. 10.480, Lucio Parada Cea, Héctor Joaquín Miranda Marroquín, Fausto García Funes, Andrés Hernández Carpio, Jose Catalino Meléndez, and Carlos Antonio Martínez. (El Salvador). January 27, 1999, par. 147; IACHR, Report No. 136/99, Case10.488, Ignacio Ellacuría, S.J.; Segundo Montes, S.J.; Armando López, S.J.; Ignacio Martín Baró, S.J.; Joaquín López y López, S.J.; Juan Ramón Moreno, S.J.; Julia Elba Ramos; and Celina Mariceth Ramos, El Salvador, December 22, 1999, par. 221; IACHR Report No. 37/00, Case No. 11.481, Merits, Monsignor Oscar Arnulfo Romero y Galdámez, (El Salvador.). April 13, 2000, par.142.

<sup>679</sup> IACHR. Right to the Truth in the Americas OEA/Ser.L/V/II.152 Doc.2. August 13, 2014, par.69.

<sup>680</sup> IACHR, Report on Terrorism and Human Rights, OEA/Ser.L/V/II.116, October 22, 2002, paragraph 291.

438. Regarding reparation, the Commission notes that international humanitarian law provides for the obligation of a state responsible for violating international humanitarian law to make full reparation for the loss or injury caused.<sup>681</sup> More specifically, the Commission takes into consideration statements made in the United Nations General Assembly regarding the right of victims of gross violations of international human rights law and serious violations of international humanitarian law to file claim and obtain reparation. In resolution No. 60 / 147, that body sustained that:

In cases of gross violations of international human rights law and serious violations of international humanitarian law constituting crimes under international law, States have the duty to investigate and, if there is sufficient evidence, the duty to submit to prosecution the person allegedly responsible for the violations and, if found guilty, the duty to punish her or him.<sup>682</sup>

439. The General Assembly also determined that the victim's rights under international law include the following: "(a) Equal and effective access to justice; (b) Adequate, effective and prompt reparation for harm suffered; and (c) Access to relevant information concerning violations and reparation mechanisms."<sup>683</sup> For reparation to be adequate, effective, and prompt, the General Assembly found that it should be proportional to the gravity of the violations and the harm suffered and be intended to promote justice by redressing gross violations of international human rights law or serious violations of international humanitarian law.<sup>684</sup>

## 2. Analysis of the Case

440. Based on the file and the arguments presented by the parties to the instant case, the Commission will conduct its analysis by examining: i) the lack of an immediate, serious, and effective investigation by the United States into complaints alleging violations of human rights and of international humanitarian law by State agents; ii) the nonexistence of effective mechanisms for ascertaining the truth; and iii) the nonexistence of effective mechanisms or remedies for obtaining appropriate reparation.

441. Before embarking on this analysis, the Commission reiterates the conclusions reached in the foregoing sections of this report, with respect to the responsibility of the State for failing to comply with its obligations under the American Declaration interpreted in light of the principles and rules of international humanitarian law. Accordingly, it must be noted, among other considerations, that the Commission concluded that the State did not provide a satisfactory and convincing explanation that would disprove the extensive contextual, circumstantial, testimonial and other evidence of disproportional use of force and of non-observance of the content of the principles of distinction and precaution in the planning and execution of Operation Just Cause.

<sup>681</sup> Henkaerts, Jean Marie, Doswald Beck Louise, Customary International Humanitarian Law, Volume I, Rules, CICR, Buenos Aires, 2007, p. 40. Rule 150. [<https://www.icrc.org/eng/assets/files/other/customary-international-humanitarian-law-i-icrc-eng.pdf>]

<sup>682</sup> United Nations General Assembly Resolution No. 60/147. 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. March 21, 2006, para. 4.

<sup>683</sup> United Nations General Assembly. Resolution No. 60/147. 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. March 21, 2006, par.11. See also: Commission on Human Rights. Promotion and Protection of Human Rights: Updated Set of principles for the protection and promotion of human rights through action to combat impunity E/CN.4/2005/102/Add.1 8 February 2005, Principle 2 (The inalienable right to the truth), Principle 4 (The victims' right to know), Principle 5 (Guarantees to give effect to the right to know), Principle 19 (Duties of States with regard to the administration of justice), and Principle 31 (Rights and duties arising out of the obligation to make reparation).

<sup>684</sup> United Nations General Assembly. Resolution No. 60/147. 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. March 21, 2006, par.15.

442. Regarding the first point about the failure of the State to conduct an immediate, serious, and effective investigation, the Commission underscores the fact that, since December 1989 and to this day there has been serious questioning of the circumstances surrounding the planning and execution of Operation Just Cause in both general terms and in relation to actions and omissions by State agents and the extent of violations of the human rights of civilian victims. Accordingly, the present report points out there is still no clarity regarding such crucial matters as the official number of Panamanian civilians killed and injured; the origin of the fire that caused extensive damage in El Chorrillos; illegal actions taken by U.S. soldiers; and the existence and extent of common or mass graves.

443. With respect to the alleged victims in the instant case, the State argued that it is extremely difficult to investigate specific instances of alleged violations,<sup>685</sup> due to the highly general nature of the petitioning party's presentation of the case. In some specific cases, however, the State indicates that its officials "investigated in depth and, whenever necessary, took steps to address the issues related to Operation Just Cause."<sup>686</sup> In the same vein, the State denied that State agents had participated in the burying of human remains in mass graves, while acknowledging the burial of 28 Panamanians killed on December 21, 1989 in individual graves in the El Corozal cemetery as the only occasion in which they had been involved in the burial of Panamanians. The State reports that its involvement had been to collaborate with local authorities due to public health reasons.

444. The Commission stresses that a number of different actors share concern and doubts as to the official figure for those killed and wounded. Shortly after the invasion, civilian organizations of victims of the military operation, Americas Watch, Physicians for Human Rights, and even the Catholic Church in Panama described the official figure as incomplete and provided determinations of higher figures. According to Physicians for Human Rights, the official figure "significantly underestimates the real number of Panamanian civilians who were killed or injured."

445. In this regard, the IACtHR considers that the official figures on the number of those killed and wounded, together with the questioning of their accuracy, were sufficient grounds to initiate an investigation ex officio into the compatibility of the way the operation was planned and executed with the principles of international humanitarian law, particularly with respect to the weapons and tactics of warfare deployed and the adequacy of measures adopted to protect civilians. However, neither the information provided by the State nor other information in the case file demonstrates that the State undertook specific and sufficient steps to conduct an investigation, as was its obligation in accordance with the right to justice. The Commission notes that the State has not reported having initiated a comprehensive investigation, or having encountered difficulties or complexities in carrying it forward; rather, it appears to consider that the obligation does not apply.

446. The Commission stresses that a large number of family members went to see local and national authorities in Panama as well as to the offices of the United States Southern Command in Panama. In the Commission's view, and based on the file, the State failed to investigate the individual complaints in accordance with guarantees of the right to justice. In addition to clarifying whether Operation Just Cause and the deaths and injuries to civilians were compatible with human rights and IHL, the State should also have examined the concrete cases in which it received information regarding specific instances of the use of force by its agents. In particular, the Commission observes that the declarations submitted contained important and sufficient data and details, such as the identification of witnesses and the determination the time and place of the alleged incidents, to be able to initiate pertinent investigations to ascertain the facts and, where applicable, hold those responsible to account.

447. With respect to common or mass graves, the Commission has verified the existence of two, Jardín de Paz and Monte Esperanza, which were the subject of inquiries by the Panamanian Public Prosecutors' Office involving the exhumation and identification of human remains. For the purposes of this case and in

<sup>685</sup> Brief of final observations made by the state received on March 29, 1996, p.13.

<sup>686</sup> Brief of final observations made by the state received on March 29, 1996, p. 16.

relation to the obligations of the United States, the Commission points out that, due to the lack of investigation, to this day it remains unclear what role the United States played in relation to these and possibly other graves. The IACHR likewise points out that the existence of mass graves makes it harder to establish possible violations of the right to life in relation to human rights and international humanitarian law and harder to achieve full identification of the victims. Accordingly, with respect to unidentified persons in the above-mentioned mass graves and the possible existence of other such graves, the IACHR considers that this matter remains pending in relation to the right to truth and justice.

448. Finally, in connection with the harm and damages sustained by the inhabitants of the El Chorrillo district, the Commission takes into account that the State took steps that made it impossible to subsequently clarify the circumstances or acts that prompted the fire that devastated that district. Here, the IACHR points out that the parties to the instant case acknowledge the clean-up and demolition activities carried out very shortly after the events of December 20, 1989. Although the State pointed to the importance and necessity of demolishing the ruins out of concern for the safety of State agents and those civilians who were still there, it did not demonstrate that it had first taken any steps to investigate and document the scene with the necessary safeguards to protect elements that were essential for later inquiries.

449. Specifically, the IACHR considers that the State failed to exercise due diligence to carry out a serious and effective investigation into violations committed to the detriment of the victims who had died. The Commission also considers that the same criteria apply to those who were seriously injured.

450. In relation to the nonexistence of effective mechanisms for ascertaining the truth, the Commission understands the scope of the challenges involved with respect to truth and justice, but it points out that neither in the immediate aftermath of the Operation nor in subsequent years has the State made a serious effort to address those challenges. The State did not comply with its obligation to guarantee access to appropriate and effective mechanisms that would allow victims and their family members to effectively assert their right to the truth. In this regard, the IACHR points out once again that when the State lets human rights violations go unpunished and full enjoyment of the victim's human rights is not promptly restored, it is failing to comply with its positive duties under international human rights law.<sup>687</sup> The Commission reiterates that no state measure with respect to justice may result in a total lack of investigation into any case of human rights violations.<sup>688</sup>

451. The Commission observes that in this sense the State did not take the required legal and administrative measures to receive complaints about possible human rights violations as a result of actions or omissions by the State in the course of an armed conflict. Nor are there any indications that the alleged victims had access to the investigations and judicial proceedings that the State claims to have conducted in connection with a very few of the many complaints filed.

452. The Commission takes note of the establishment of the December 20, 1989 Commission as an initiative of the Government of Panama in response to the demands of the victims and victims' associations involved. Nevertheless, the Commission stresses that, despite the United States Government's assurance that it intends to cooperate with the activities of that Commission, this would not equate to compliance with the State's obligations vis-à-vis the alleged victims in the instant case.

453. With respect to the third point, the IACHR reiterates the duty of the State to grant appropriate reparation to the victims of human rights violations and breaches of international humanitarian law. Accordingly, the IACHR emphasizes that in connection with the instant case the Southern Command did initiate some arrangements for compensation for wrongs committed by U.S. soldiers. However, as the admissibility report for this case showed, it was not an adequate remedy and one available to civilians who had lost a family

<sup>687</sup> IACHR, Report No. 50/16, Case No. 12.834. Merits. Undocumented workers (United States), November 30, 2016, par. 101; IACHR, Report No. 80/11, Case No. 12.626, Jessica Lenahan Gonzales et al. (United States), July 21, 2011, par. 173; IACHR, The Situation of the Rights of Women in Ciudad Juarez, Mexico, OEA/Ser.L/V/II.117. Doc.44, March 7, 2003, para. 51.

<sup>688</sup> IACHR, Truth, Justice and Reparation: Fourth Report on the Situation of Human Rights in Colombia. OEA/Ser.L/V/II. Doc. 49/13, para. 231.

member or who had been injured and/or who had lost property in the context of an international armed conflict.

454. The Commission observes that since the State maintained its stance regarding the nonexistence of an obligation to make reparation for damage or violations occurring in connection with an international armed conflict, this made it impossible for the alleged victims to access, much less obtain, appropriate and sufficient compensation for the damage done, even before a pertinent investigation existed.

455. Likewise, the United States insisted that the legitimate humanitarian interests of the Panamanian people had been addressed by the financial assistance programs set up by the government in Panama, as ex gratia aid, in which a total of almost one billion dollars had reportedly been committed for the reconstruction of Panama following the Noriega regime and the events it triggered.

456. The Commission concurs with the State's argument that financial aid programs should not be considered sufficient and appropriate reparation under international human rights law and international humanitarian law because they do not address the specific harm suffered by individual victims as a result of the acknowledgment of an injury and the necessary investigation into the circumstances.

457. In conclusion, the Inter-American Commission considers that in the instant case the State failed to comply with its obligations to respect and guarantee the right to justice, truth and reparation in accordance with the American Declaration to the detriment of persons who, as established in the foregoing sections of this report, suffered violations of rights set forth in that instrument, inasmuch as it failed to take the necessary steps to conduct, ex officio, serious investigations into the use of force in contravention of the principles of human rights and international humanitarian law. The State also failed to make arrangements to allow those affected to obtain clarification of the relevant facts and obtain full reparation for the harm done. In the case of the victims who lost their lives, the Commission establishes that this violation was to the detriment of their family members.

#### **F. Right to Personal Integrity**

458. Article I of the American Declaration set forth the right to personal integrity as follows:

Every human being has the right to life, liberty and the security of his person.

459. The IACHR observes that, because of the way the military invasion was planned and executed, the United States is responsible for violations of human rights in the context of an armed conflict, and the circumstances generated a high degree of uncertainty, in which victims' family lives were sorely affected by the loss of a family member, and/or by serious injury, and/or the disruption of their home and family life, work and financial stability. The Commission notes that some 104 people alleged psychological damage to themselves and family members as a result of various events occurring in connection with the execution of Operation Just Cause. From the description of those events, the Commission notes a marked similarity to the facts analyzed in this section, so that it is reasonable to infer causality and a consequent violation of those persons' right to personal integrity set forth in Article I of the Declaration.

460. Accordingly, the IACHR concludes that there was a violation of these victims' right to personal integrity.

#### **V. REPORT No. 169/17**

461. On December 6, 2017, the Commission approved Report No. 169/17 on the merits of the instant case, which encompasses paragraphs 1 to 460 supra, and issued the following recommendations to the State:

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1. Provide full reparation for the human rights violations established in the instant report, including both the material and moral dimensions; Adopt measures that provide both financial compensation and satisfaction.

The Commission considers that, to comply with this recommendation, the State must establish, without delay, a special mechanism at its own initiative and irrespective of any initiatives that the Panamanian State may take, for delivering the reparation applicable to each group of victims taking into consideration the nature of the declared violations. Bearing in mind that the victims are not within the territorial jurisdiction of the United States, the Commission urges that State to make every diplomatic or other effort needed to ensure due implementation of this recommendation. Likewise, with respect to the victims who lost their lives, reparation must be made to their family members or heirs, as the case may be.

2. Provide such physical and mental health services as are needed for the rehabilitation of the victims that require it, if they so wish. Bearing in mind that the victims are not within the territorial jurisdiction of the United States, a specific amount should be paid to them to cover the medical care they need in the countries where they are located.
3. Conduct and complete a diligent and effective investigation within a reasonable period of time to fully clarify the facts; identify all possible responsibilities; and impose the corresponding forms of accountability for the human rights violations shown in this report.

## VI. MEASURES SUBSEQUENT TO REPORT No. 169/17

462. On December 29, 2017, the Commission forwarded the report to the State, granting two-months for it to report on the measures taken by it to comply with the recommendations.

463. On February 1, 2018, the petitioners sent a communication to the Commission expressing their concern "due to the presence of armed US military personnel with diplomatic immunity in Panamanian territory." They did not explain further.

464. On March 2018, the State informed the Commission that it had "taken under advisement the nonbinding recommendations set forth [in the report]" and reiterated its objection to the way the Commission interpreted and applied the law of armed conflict in the report. The State indicated that the only international instrument relevant for the United States in petitions before the IACtHR is the American Declaration which does not embrace the customary or conventional law of armed conflict.

465. The State further objected to the recommendation to establish a special mechanism that would permit recovery of reparations for death, injury, or property damage experienced by civilians during Operation Just Cause. It insisted that neither the American Declaration nor customary international law establishes a private right of compensation for individuals who suffer death or injury during the course of lawful international armed conflict.

466. The State reiterated that it provided substantial financial assistance to the Government of Panama in the form of reconstruction and recovery assistance in the years following Operation Just Cause and that the United States has met with the December 20 Commission, to identify areas in which it can cooperate. The State reiterated that the Commission should have waited for the December 20 Commission to finish its work instead of issuing a series of recommendations to the United States that are not feasible for implementation.

467. On April 27, 2018 the petitioners presented a communication to the Commission in which they referred to the failure of the United States to act in conformity with its obligations within the inter-American system, and underlined that its response to the Commission's report and recommendations reflects this. They noted that actions that the State of Panama may undertake in order to clarify the events of the invasion and

aftermath are independent of the framework of the present case which concerns the responsibility and duty to provide reparation of the United States.

468. The petitioners also addressed the importance of the recommendations of the Commission and indicated a number of ways in which the United States could implement them. For example, with respect to providing medical treatment and rehabilitation to the victims, they noted that there are several hospitals in Panama that are affiliated with hospitals in the United States where they could receive treatment. They indicated their willingness to provide further information in order to facilitate the process of implementation of the recommendations in order that the victims may find a sense of satisfaction of their demand for justice.

## VII. MERITS REPORT (FINAL) No. 70/18

469. On May 10, 2018, the Commission approved its (Final) Merits Report No. 70/18 and forwarded to the State on August 16, 2018 asking it to report on the measures taken by it to comply with the recommendations within one month. No response was received from the State.

470. On August 23, 2018, the petitioners informed of two mental health professionals capable of assisting in the establishment of a post traumatic center or any other program on behalf of the victims. They also informed that they would be collecting additional documents available in Panama and the US in order to assist in the task of finding the truth and accountability that the victims need to complement financial and other forms of reparations. Lastly, the petitioners asked the Commission to correct the last name of one of the victims, Elizabeth Ramos, which is Rudas and not Rueda as stated in the Annex 1-List of Victims, of the Merits Report. The Commission proceeded as requested.

## VIII. FINAL CONCLUSIONS AND RECOMMENDATIONS

471. From the available information as of the date of approval of this report, the Commission notes that the United States has not complied with the recommendations set forth in the merits report.

472. Based on the above determinations of fact and law, the Inter-American Commission concludes that the State is responsible for violating Articles I (right to life, liberty, and personal integrity), VII (right to protection for mothers and children), XXIII (right to property), and XVIII (right to justice) of the American Declaration of the Rights and Duties of Man, to the detriment of the persons individually identified in the Annexes to this report on the merits, in connection with each of violations committed.

Accordingly,

### THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS REITERATES TO THE UNITED STATES OF AMERICA THE FOLLOWING RECOMMENDATIONS:

1. Provide full reparation for the human rights violations established in the instant report, including both the material and moral dimensions; Adopt measures that provide both financial compensation and satisfaction.

The Commission considers that, to comply with this recommendation, the State must establish, without delay, a special mechanism at its own initiative and irrespective of any initiatives that the Panamanian State may take, for delivering the reparation applicable to each group of victims taking into consideration the nature of the declared violations. Bearing in mind that the victims are not within the territorial jurisdiction of the United States, the Commission urges that State to make every diplomatic or other effort needed to ensure due implementation of this recommendation. Likewise, with respect to the victims who lost their lives, reparation must be made to their family members or heirs, as the case may be.

2. Provide such physical and mental health services as are needed for the rehabilitation of the victims that require it, if they so wish. Bearing in mind that the victims are not within the territorial jurisdiction of the United States, a specific amount should be paid to them to cover the medical care they need in the countries where they are located.
3. Conduct and complete a diligent and effective investigation within a reasonable period of time to fully clarify the facts; identify all possible responsibilities; and impose the corresponding forms of accountability for the human rights violations shown in this report.

## **IX. PUBLICATION**

473. In light of the foregoing considerations and in accordance with Article 47.3 of its Rules of Procedure, the Commission decides to publish this report and include it in its Annual Report to the OAS General Assembly. The Commission, in compliance with its mandate, will continue evaluating compliance with the recommendations reiterated in this report until they are fully implemented.

Approved by the Inter-American Commission on Human Rights in the city of Boulder, Colorado, on the 5 day of the month of October, 2018. (Signed): Margarete May Macaulay, President; Joel Hernández García, Antonia Urrejola y Flavia Piovesan, Commissioners.