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Institution:	Inter-American Court of Human Rights
Title/Style of Cause:	Claudia Ivette Gonzalez, Irma Josefina Gonzalez Rodriguez, Mayela Banda Gonzalez, Gema Iris Gonzalez, Karla Arizbeth Hernandez Banda, Jacqueline Hernandez, Carlos Hernandez Llamas, Esmeralda Herrera Monreal, Irma Monreal Jaime, Benigno Herrera Monreal, Adrian Herrera Monreal, Juan Antonio Herrera Monreal, Cecilia Herrera Monreal, Zulema Montijo Monreal, Erick Montijo Monreal, Juana Ballin Castro, Laura Berenice Ramos Monarrez, Benita Monarrez Salgado, Claudia Ivonne Ramos Monarrez, Daniel Ramos Monarrez, Ramon Antonio Aragon Monarrez, Claudia Dayana Bermudez Ramos, Itzel Arely Bermudez Ramos, Paola Alexandra Bermudez Ramos and Atziri Geraldine Bermudez Ramos v. Mexico
Alt. Title/Style of Cause:	Cotton Field v. Mexico
Doc. Type:	Judgement (Preliminary Objection, Merits, Reparations, and Costs)
Decided by:	President: Cecilia Medina Quiroga; Vice President: Diego Garcia-Sayan; Judges: Manuel E. Ventura Robles; Margarette May Macaulay; Rhadys Abreu Blondet; Rosa Maria Alvarez Gonzalez On December 15, 2007, the President of the Court at the time, Judge Sergio Garcia Ramirez, a Mexican national, ceded the Presidency to Judge Cecilia Medina Quiroga and informed the Court that he was disqualified from hearing this case. Judge Garcia Ramirez explained the reasons for this disqualification, which the Court accepted. On December 21, 2007, the State was advised of this decision and informed that it could appoint a judge ad hoc to take part in the hearing of the case. On February 29, 2008, following two extensions, the State appointed Veronica Martinez Solares as judge ad hoc. On September 18, 2008, the representatives of the alleged victims objected to this appointment, indicating that Ms. Martinez Solares did “not fulfill one of the requirements established in Article 52 of the [American Convention] to be a judge of the Inter-American Court.” On October 30, 2008, the Court issued an order in which it indicated that Ms. Martinez Solares did “not comply with the requirements to participate as judge ad hoc in the instant case.” In the order, the Court gave the State a certain time to appoint another judge ad hoc. On December 3, 2008, the State appointed Rosa Maria Álvarez Gonzalez to perform this function. Additionally, for reasons of force majeure, Judge Leonardo A. Franco did not participate in the deliberation and signature of this Judgment.
Dated:	16 November 2009
Citation:	Gonzalez v. Mexico, Judgement (IACtHR, 16 Nov. 2009)
Represented by:	APPLICANTS: the Asociacion Nacional de Abogados Democraticos A. C., the Latin American and Caribbean Committee for the Defense of Women’s Rights, the Red Ciudadana de No Violencia y por la Dignidad Humana and the Centro para el Desarrollo Integral of the Mujer A. C.

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In the case of González et al. ("Cotton Field"),

the Inter-American Court of Human Rights (hereinafter "the Inter-American Court", "the Court" or "the Tribunal"), pursuant to Articles 62(3) and 63(1) of the American Convention on Human Rights (hereinafter "the Convention" or "the American Convention") and Articles 29, 31, 37(6), 56 and 58 of the Rules of Procedure of the Court [FN2] (hereinafter "the Rules of Procedure"), delivers this judgment.

[FN2] As established in Article 72(2) of the current Rules of Procedure of the Inter-American Court, the latest amendment to which entered into force on March 24, 2009, "[c]ases pending resolution shall be processed according to the provisions of these Rules of Procedure, except for those cases in which a hearing has already been convened upon the entry into force of these Rules of Procedure; such cases shall be governed by the provisions of the previous Rules of Procedure." Accordingly, the Rules of Procedure of the Court mentioned in this Judgment correspond to the instrument approved by the Court at its XLIX Regular Period of Sessions held from November 16 to 25, 2000, partially amended by the Court at its XLI Regular Period of Sessions held from November 20 to December 4, 2003.

I. INTRODUCTION OF THE CASE AND PURPOSE OF THE DISPUTE

1. On November 4, 2007, under Articles 51 and 61 of the Convention, the Inter-American Commission on Human Rights (hereinafter "the Commission" or "the Inter-American Commission") presented an application against the United Mexican States (hereinafter "the State" or "Mexico"), which gave rise to the instant case. The initial petition was presented to the Commission on March 6, 2002. On February 24, 2005, the Commission approved Reports Nos. 16/05, 17/05 and 18/05, declaring the respective petitions admissible. On January 30, 2007, the Commission notified the parties of its decision to joinder the three cases. Subsequently, on March 9, 2007, it approved the Report on merits No. 28/07, in accordance with Article 50 of the Convention, with specific recommendations for the State. This report was notified to the State on April 4, 2007. Upon considering that Mexico had not adopted its recommendations, the Commission decided to submit the case to the jurisdiction of the Court. The Commission appointed Commissioner Florentín Meléndez and Executive Secretary Santiago A. Canton, as delegates, and Elizabeth Abi-Mershed, Deputy Executive Secretary, and Juan Pablo Albán, Marisol Blanchard, Rosa Celorio and Fiorella Melzi, Executive Secretariat specialists, as legal advisers.

2. The application relates to the State's alleged international responsibility for "the disappearance and subsequent death" of the Mss. Claudia Ivette González, Esmeralda Herrera Monreal and Laura Berenice Ramos Monárrez (hereinafter "Mss. González, Herrera and Ramos"), whose bodies were found in a cotton field in Ciudad Juárez on November 6, 2001. The State is considered responsible for "the lack of measures for the protection of the victims, two of whom were minor children, the lack of prevention of these crimes, in spite of full awareness of

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the existence of a pattern of gender-related violence that had resulted in hundreds of women and girls murdered, the lack of response of the authorities to the disappearance […]; the lack of due diligence in the investigation of the homicides […], as well as the denial of justice and the lack of an adequate reparation."

3. The Commission asked that the Court declare the State responsible for the violation of the rights embodied in Articles 4 (Right to Life), 5 (Right to Humane Treatment), 8 (Right to a Fair Trial), 19 (Rights of the Child) and 25 (Right to Judicial Protection) of the Convention, in relation to the obligations established in Articles 1(1) (Obligation to Respect Rights) and 2 (Domestic Legal Effects) thereof, together with failure to comply with the obligations arising from Article 7 of the Convention on the Prevention, Punishment and Eradication of Violence against Women (hereinafter "the Convention of Belém do Pará"). The application was notified to the State on December 21, 2007, and to the representatives on January 2, 2008.

4. On February 23, 2008, the Asociación Nacional de Abogados Democráticos A. C., the Latin American and Caribbean Committee for the Defense of Women's Rights, the Red Ciudadana de No Violencia y por la Dignidad Humana and the Centro para el Desarrollo Integral of the Mujer A. C., representatives of the alleged victims (hereinafter "the representatives"), [FN3] presented their brief with pleadings, motions and evidence (hereinafter "pleadings and motions brief"). In addition to the allegations submitted by the Commission, the representatives asked that the number of victims be expanded to eleven women and that the Court rule on the alleged arbitrary detention, torture and violation of due process of three other people. In addition to the Articles invoked by the Commission, the representatives asked that the Court declare the State responsible for violating the rights embodied in Articles 7 (Right to Personal Liberty) and 11 (Right to Privacy [Dignity and Honor]) of the Convention, all in relation to the general obligations arising from Articles 1(1) and 2 thereof, as well as Article 7 of the Convention of Belém do Pará, in connection with Articles 8 and 9 thereof. Furthermore, they asked the Court to declare that the State had violated the right embodied in Article 5 of the American Convention to the detriment of the three alleged victims identified by the Commission.

[FN3] On December 14, 2007, said organizations advised the Court that they had appointed Sonia Torres Hernández as their common intervener in accordance with Article 23(2) of the Court's Rules of Procedure (merits case file, volume V, folio 1936).

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5. On May 26, 2008, the State presented its brief in answer to the application and with observations on the pleadings and motions brief (hereinafter "answer to the application"). This brief questioned the Court's jurisdiction to examine the alleged violation of the Convention of Belém do Pará. In addition, it contested the expansion of the number of victims proposed by the representatives, and partially acknowledged its international responsibility. The State appointed Juan Manuel Gómez-Robledo Verduzco as its agent, and Patricia González Rodríguez, Joel Antonio Hernández García, María Carmen Oñate Muñoz, Alejandro Negrín Muñoz and Armando Vivanco Castellanos as its Deputy Agents.

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6. On July 16, 2008, having examined the answer to the application, the President of the Court (hereinafter "the President") informed the State that the allegations concerning the Convention of Belém do Pará constituted a preliminary objection. Consequently, in accordance with Article 37(4) of the Rules of Procedure, she granted the Commission and the representatives 30 days to submit written arguments. The arguments were presented on August 20, and September 6, 2008, respectively.

II. PROCEEDING BEFORE THE COURT

7. On August 21, 2008, the representatives expressed their intention of commenting on "relevant information" contained in the attachments to the answer to the application and providing information on "supervening facts." On August 26, 2008, the President refused the representatives' request to submit their comments on the attachments to the answer to the application at this procedural stage, because they had failed to justify why Article 39 of the Rules of Procedure should be applied. Nevertheless, the President advised the representatives that they could submit any allegations they deemed pertinent during the oral proceedings or in their final written arguments.

8. On September 6, 2008, the representatives submitted a brief in which, inter alia, they commented on "the observations made by the Mexican State in its answer to the application." On September 9, 2008, the President considered that this part of the brief would not be taken into account, because the Rules of Procedure made no provision for its presentation and it had not been requested. Nevertheless, the President informed the representatives that they could present any allegations they deemed pertinent, during the oral proceedings or in their final written arguments.

9. In an order of January 19, 2009, the Court denied the request to expand the number of alleged victims and determined that the alleged victims in the instant case would be Esmeralda Herrera Monreal and her next of kin: Irma Monreal Jaime (mother), Benigno Herrera Monreal (brother), Adrián Herrera Monreal (brother), Juan Antonio Herrera Monreal (brother), Cecilia Herrera Monreal (sister), Zulema Montijo Monreal (sister), Erick Montijo Monreal (brother), Juana Ballín Castro (sister-in-law); Claudia Ivette González and her next of kin: Irma Josefina González Rodríguez (mother), Mayela Banda González (sister), Gema Iris González (sister), Karla Arizbeth Hernández Banda (niece), Jacqueline Hernández (niece), Carlos Hernández Llamas (brother-in-law), and Laura Berenice Ramos Monárrez and her next of kin: Benita Monárrez Salgado (mother), Claudia Ivonne Ramos Monárrez (sister), Daniel Ramos Monárrez (brother), Ramón Antonio Aragón Monárrez (brother), Claudia Dayana Bermúdez Ramos (niece), Itzel Arely Bermúdez Ramos (niece), Paola Alexandra Bermúdez Ramos (niece) and Atziri Geraldine Bermúdez Ramos (niece). [FN4] Furthermore, in this order, the Court examined the State's refusal to forward specific evidence that it had requested and decided that it could consider proven any facts that could only be confirmed by the evidence that the State refused to forward. [FN5]

[FN4] Cf. Case of González et al. ("Cotton Field") v. Mexico. Order of the Court of January 19, 2009, second operative paragraph.

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[FN5] Cf. Case of González et al. (“Cotton Field”) v. Mexico, supra note 4, fourth operative paragraph.
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10. In an order of March 18, 2009, [FN6] the President required the submission of some of the testimony and expert opinions offered, at the appropriate moment by the parties, by means of statements made before notary publics (affidavit). In addition, the parties were convened to attend a private hearing to hear the testimony, offered by the State, of Patricia González Rodríguez, provided she renounced her status as a Deputy Agent. In addition, a public hearing was convened to hear the testimonies proposed by the Commission, the State, and the representatives, as well as the final oral arguments on the preliminary objection and the possible merits, reparations and costs. Lastly, the President granted the parties until June 1, 2009, to present their respective briefs with final arguments.

[FN6] Cf. Case of González et al. (“Cotton Field”) v. Mexico. Order of the President of the Court of March 18, 2009.
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11. In an order of April 3, 2009, the Court decided to accept the confirmation of Patricia González Rodríguez as the State’s Deputy Agent and, consequently, the State’s waiver of its offer of her informative statement at a private hearing [FN7] (supra para. 10).

[FN7] Cf. Case of González et al. (“Cotton Field”) v. Mexico. Order of the Court of April 3, 2009, first operative paragraph.
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12. The public hearing was held on April 28 and 29, 2009, during the XXXIX Extraordinary Period of Sessions of the Court held in Santiago, Republic of Chile. [FN8]

[FN8] The following persons attended the hearing: (a) for the Inter-American Commission: Florentín Meléndez, Commissioner; Elizabeth Abi-Mershed, Deputy Executive Secretary; Juan Pablo Albán Alencastro, adviser; Rosa Celorio, adviser, and Fiorella Melzi, adviser; (b) for the alleged victims: Alfredo Limas Hernández, representative; Andrea de la Barreda Montpellier, representative; Andrea Medina Rosas, representative; Ariel E. Dulitzky, adviser; David Peña Rodríguez, representative; Emilio Ginés Santidrián, adviser; Héctor Faúndez Ledesma, adviser; Héctor Pérez Rivera, adviser; Ivonne I. Mendoza Salazar, representative; María del Carmen Herrera García, adviser; María Edith López Hernández, adviser; Karla Micheel Salas Ramírez, representative, and Sonia Josefina Torres Hernández, common intervener, and (c) for the State: Alejandro Negrín Muñoz, Agent, Director General of Human Rights and Democracy of the Mexican Ministry of Foreign Affairs; Mario Leal Campos, adviser to the Ambassador of Mexico to Chile; Patricia González Rodríguez, Deputy Agent, Attorney General of the state of Chihuahua; Mario Alberto Prado Rodríguez, adviser, Coordinator of Advisory Services for the Assistant Secretary for Legal Affairs and Human Rights of the Secretariat of Government;

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Mauricio Elpidio Montes de Oca Durán, adviser, Deputy Director General for Investigation and Attention to Human Rights Cases of the Secretariat of Government; Víctor Manuel Uribe Aviña, adviser, Assistant Legal Consultant to the Ministry of Foreign Affairs; Arturo Licón Baeza, adviser, Assistant Prosecutor for Human Rights and Services to Victims of Crime of the state of Chihuahua; Pablo Navarrete Gutiérrez, adviser, Legal Affairs Coordinator of the National Women's Institute; Carlos Garduño Salinas, adviser, Director for Human Rights of the Office of the Attorney General of the Republic; Fernando Tiscareño Luján, adviser, Adviser to the Secretary General of Government of the state of Chihuahua; Rodolfo Leyva Martínez, adviser, public official of the Office of the Assistant Prosecutor for Human Rights and Services to Victims of Crime of the state of Chihuahua; José Ignacio Martín del Campo Covarrubias, adviser, Director of the International Human Rights Litigation Area of the Ministry of Foreign Affairs; Ximena Mariscal de Alba, adviser, Deputy Director of the International Human Rights Litigation Area of the Ministry of Foreign Affairs; David Ricardo Uribe González, adviser, Department Head of the International Human Rights Litigation Area of the Ministry of Foreign Affairs; Luis Manuel Jardón Piña, adviser, Head of the Litigation Department of the Legal Services Office of the Ministry of Foreign Affairs, and Carlos Giménez Zamudio, adviser, Head of the Domestic Policy, Press and Human Rights Area of the Mexican Embassy in Chile.
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13. On June 12, 2009 the Commission and the State forwarded their briefs with final arguments. On June 16, 2009 the representatives forwarded their respective brief.

14. The Court received amicus curiae briefs from the following persons, institutions and organizations: International Reproductive and Sexual Health Law Program (IRSHL Program) of the Law School of the University of Toronto and the Center for Justice and International Law (CEJIL); [FN9] TRIAL-Track Impunity Always and the World Organization against Torture; [FN10] a group of grant holders of the Legal Research Institute of the Universidad Nacional Autónoma de Mexico (hereinafter the "UNAM"); [FN11] a human rights group of the UNAM Postgraduate Department; [FN12] Women's Link Worldwide; [FN13] the Women's Network of Ciudad Juárez A.C.; [FN14] the Global Justice and Human Rights Program of the Universidad de los Andes; [FN15] the Human Rights Program and the Master's Program in Human Rights of the Universidad Iberoamericana of Mexico; [FN16] Human Rights Watch; [FN17] Horvitz & Levy LLP; [FN18] the International Commission of Jurists; [FN19] Amnesty International, [FN20] and the Human Rights Centre of the School of Law of Essex University, the International Center for Transitional Justice, and Redress. [FN21]

[FN9] Brief presented by Simona Cusack, Rebecca J. Cook, Viviana Krsticevic and Vanessa Coria on December 4, 2008.
[FN10] Brief presented by Eric Sottas and Philip Grant on April 16, 2009. On April 28, 2009, the Consejo General of the Abogacía Española and the Fundación del Consejo General of the Abogacía General adhered to the brief.
[FN11] Brief presented by Miguel Ángel Antemate Mendoza, Selene Cruz Alcalá, Rafael Caballero Hernández, Carlos Alejandro Martiarena Leonar and Alma Elena Rueda Rodríguez on April 23, 2009.
[FN12] Brief presented by Raymundo Gil Rendón and several of his students on April 24, 2007.

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[FN13] Brief presented by Viviana Waisman and Paloma Soria Montañez on April 27, 2008.
[FN14] Brief also prepared by: Cáritas Diocesana of Ciudad Juárez, Pastoral Obrera, Programa Compañeros, Ciudadanos por una mejor Administración Pública, Casa Amiga Centro de Crisis, and by Clara Eugenia Rojas Blanco, Elizabeth Loera and Diana Itzel Gonzáles; and presented by Imelda Marrufo Nava on May 15, 2009.
[FN15] Brief presented by César A. Rodríguez Garavito on June 1, 2009.
[FN16] Brief presented by José Antonio Ibáñez Aguirre on July 10, 2009.
[FN17] Brief presented by Clive Baldwin on June 8, 2009.
[FN18] Brief supported by: Amnesty International, Thomas Antkowiak, Tamar Birckhead, Mary Boyce, Break the Circle, Arturo Carrillo, the Center for Constitutional Rights, the Center for Gender and Refugee Studies, the Center for Justice and Accountability, the Human Rights Center of the Universidad Diego Portales, Columbia Law School Human Rights Clinic, Cornell Law School International Human Rights Clinic, Bridget J. Crawford, the Domestic Violence and Civil Protection Order Clinic of the University of Cincinnati, Margaret Drew, Martin Geer, the Human Rights and Genocide Clinic, Benjamín N. Cardozo School of Law, Human Rights Advocates, Deena Hurwitz, the Immigration Clinic at the University of Maryland School of Law, the Immigration Justice Clinic, IMPACT Personal Safety, the International Human Rights Clinic at Willamette University College of Law, the International Mental Disability Law Reform Project of New York Law School, the International Women's Human Rights Clinic at Georgetown Law School, Latinojustice PRLDEF, the Legal Services Clinic at Western New England College School of Law, the Leitner Center for International Law and Justice at Fordham Law School, Bert B. Lockwood, the Allard K. Lowenstein International Human Rights Clinic, Yale Law School, Beth Lyon, Thomas M. McDonnell, the National Association of Women Lawyers, the Los Angeles Chapter of the National Lawyers Guild, the National Organization for Women, Noah Novogrodsky, Jamie O´Connell, Sarah Paoletti, Jo M. Pasqualucci, Naomi Roht-Arriaza, Darren Rosenblum, Susan Deller Ross, Seton Hall University School of Law Center for Social Justice, Gwynne Skinner, Kathleen Staudt, Jeffrey Stempel, Maureen A. Sweeney, Jonathan Todres, the Urban Morgan Institute for Human Rights, the U.S. Human Rights Network, Penny M. Venetis, Deborah Weissman, Richard J. Wilson, the Women's Law Project, the Women Lawyers Association of Los Angeles, and the World Organization for Human Rights USA. It was presented by David S. Ettinger and Mary-Christine Sungaila on July 17, 2009.
[FN19] Brief presented by Leah Hoctor on July 17, 2009.
[FN20] Brief presented by Widney Brown on July 13, 2009.
[FN21] Brief presented on September 21, 2009, by Clara Sandoval and students of the Human Rights Center and School of Law of Essex University, Carla Ferstman and Marta Valiñas of Redress; Javier Ciurlizza and Catalina Díaz of the International Center for Transitional Justice (ICTJ), Ruth Rubio Marín of the European University Institute, and Mariclaire Acosta, Ximena Andión Ibañez and Gail Aguilar Castañón.
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15. On September 22, 2009, the representatives presented a brief in which they informed the Court of "supervening facts," concerning the appointment of Arturo Chávez Chávez to head the Office of the Attorney General of the Republic.

16. The Secretariat, following the President's instructions, granted the Commission and the State a delay to submit their observations on the representatives' brief mentioned in the

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preceding paragraph. On October 15, 2009, the Commission indicated that it had no observations to make. On October 16, 2009, the State indicated that "the facts set out by the representatives […] bear absolutely no relationship to the proceedings in this matter; nor do they provide any element that [the] Court could take into consideration to help it decide the matter." It added that the facts stated by the representatives did not have "a minimum phenomenological connection with the facts of the proceedings; to the contrary, they are attempting to introduce into the proceedings facts that differ from those that comprise its factual framework." Lastly, it noted that the representatives had not indicated how the appointment of the current Attorney General of the Republic had an impact on or was related to any substantial fact of this matter.

17. In this regard, the Tribunal reiterates that, even though supervening facts may be submitted by the parties at any stage of the proceedings prior to the judgment, "this does not mean that any situation or incident that occurs after those procedural acts may constitute a supervening fact within the proceedings. A fact of this nature must be phenomenologically linked [those] of the proceeding; and therefore it is not enough that certain situations or facts […] be related to facts and arguments presented in a case for this Tribunal to be able to hear them." [FN22]

[FN22] Case of Perozo et al. v. Venezuela. Preliminary objections, Merits, Reparations and Costs. Judgment of January 28, 2009. Series C No. 195, para. 67.

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18. Furthermore, the Court emphasizes that, in exercise of its contentious jurisdiction as an international human rights court, its function in the instant case is to determine whether the State is responsible for the alleged violations, and not the personal responsibility of Mr. Chávez Chávez or other public officials. That task belongs exclusively to the State, although the Court can verify if the State has complied with the relevant obligations arising from the American Convention.

19. Based on the above, the Court does not admit the representatives' brief indicated in paragraph 15 supra and will limit itself to examining the arguments of the parties regarding the alleged international responsibility of the State.

III. PARTIAL ACKNOWLEDGEMENT OF INTERNATIONAL RESPONSIBILITY

20. The State made a partial acknowledgement of international responsibility as follows:

The State acknowledges that, during the first stage of the investigations, from 2001 to 2003, irregularities occurred. […]
[During] the second stage of the investigations into these three cases, starting in 2004, […] the irregularities were fully rectified, the case files were reconstituted, and the investigations were started up again on a scientific basis, and even with international support for some components.
[…]
The State acknowledges that, owing to said irregularities, the mental integrity and the dignity of the next of kin of Claudia Ivette González, Esmeralda Herrera Monreal and Laura Berenice

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Ramos Monárrez were affected. Nevertheless, the support provided to the next of kin of each of the three victims in the form of financial resources, medical and psychological assistance and legal advisory services is described in detail, and constitutes reparation of the damage caused.
However, the State considers that, in these three cases, it cannot be claimed that it has violated, in any way, the right to life, to humane treatment, to dignity, and to personal liberty of Esmeralda Herrera Monreal, Claudia Ivette González and Laura Berenice Ramos Monárrez. On the one hand, State agents did not take part in any of the three murders and, on the other, the State is presenting extensive information to prove that it has complied fully with its obligations in this regard; particularly the conclusive results of the investigations and the cases resolved from 1993 to date.
Similarly, the State has undertaken fully-verified actions to protect and promote the rights of the child; consequently, [the Court] cannot declare that it has violated Article 19 of the American Convention to the detriment of the victims. In brief, the State cannot be declared directly or indirectly responsible for violating the rights to life, to humane treatment and to personal liberty in the case sub judice.

21. In this regard, the State asked that the Court:

Take into consideration the State's partial acknowledgement of responsibility for the failure to comply with the obligations contained in Articles 8(1) and 25(1) of the American Convention [on] Human Rights, and Article 5 of the Convention with regard to the next of kin of Laura Berenice Ramos Monárrez, Claudia Ivette González and Esmeralda Herrera Monreal.
Declare that the Mexican State has not violated Articles 4(1), 5(1), 7, 11 and 19 of the American Convention [on] Human Rights with regard to Claudia Ivette González, Esmeralda Herrera Monreal and Laura Berenice Ramos Monárrez.
Declare that the State has complied with the obligations of prevention, investigation and reparation established in Articles 4(1) and 5(1) in relation to Article 1(1) of the American Convention [on] Human Rights.
If [the Court] decides that there should be some type of reparation, [it requested] that this should be established based on the limits and considerations indicated by the State […], and also that the Court recognize the efforts made by the Mexican State to make reparation to the victims' next of kin, even before these proceedings commenced, and the numerous meetings held with them to reach an agreement on additional reparation.

22. The Commission took into consideration the partial acknowledgement of international responsibility made by Mexico, because it considered that this was "a positive step towards compliance with its international obligations." However, without underestimating the value and importance of this acknowledgement, the Commission noted that it "arose from a different interpretation of the facts to the one set out in the application and in the brief with pleadings, motions and evidence." It added that "several of the arguments put forward by the State, in the brief answering the application, contradict the facts that are supposedly acknowledged." Also, it observed that, owing to the terms of this acknowledgement, "the State has not assumed fully the legal implications of the facts, or the pertinence of the reparations requested by the parties." Consequently, the Commission considered that it was "essential that the Court decide, in a judgment, the issues that remain in dispute."

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23. The representatives requested "that the State's acknowledgement of responsibility be taken into consideration […] based on its literal meaning," and that the Court "rule on the violations of the victims' human rights that have been committed from the day of their disappearance to date."

24. According to Articles 53(2) and 55 of the Rules of Procedure and in exercise of its powers to provide international judicial protection for human rights, the Court can decide whether an acknowledgement of international responsibility made by a defendant State offers sufficient grounds, in the terms of the Convention, to continue examining the merits and determine possible reparations and costs. [FN23]

[FN23] Article 53(2) of the Rules of Procedure stipulates that:
If the respondent informs the Court of its acquiescence to the claims of the party that has brought the case as well as to the claims of the representatives of the alleged victims, their next of kin or representatives, the Court, after hearing the opinions of the other parties to the case, shall decide whether such acquiescence and its juridical effects are acceptable. In that event, the Court shall determine the appropriate reparations and indemnities.
And, Article 55 del Rules of Procedure establishes that:
The Court may,notwithstanding the existence of the conditions indicated in the preceding paragraphs and bearing in mind its responsibility to protect human rights, decide to continue the consideration of a case.

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25. In this regard, the Court observes that the phrase "shall decide whether such acquiescence and its legal effects are acceptable," as well as the integral text of Article 55 of the Rules of Procedure, indicate that these declarations are not, in themselves, binding for the Court. Since the cases before this Court refer to the protection of human rights, an issue that relates to international public order and transcends the intention of the parties, the Court must ensure that such declarations are acceptable for the purposes that the Inter-American System seeks to achieve. In this task, the Court does not limit itself to merely verifying the formal conditions of said declarations, but must relate them to the nature and seriousness of the alleged violations, the interest and requirements of justice, the particular circumstances of the specific case, and the attitude and position of the parties. [FN24]

[FN24] Cf. Case of Kimel v. Argentina. Merits, Reparations and Costs. Judgment of May 2, 2008. Series C No. 177, para. 24, and Case of Ticona Estrada v. Bolivia. Merits, Reparations and Costs. Judgment of November 27, 2008. Series C No. 191, para. 21.

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26. In the instant case, the Court considers that the State's partial acknowledgement of responsibility makes a positive contribution to the development of these proceedings, to the satisfactory functioning of the Inter-American jurisdiction with regard to human rights, to the exercise of the principles that inspire the American Convention, and to the conduct which the

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States are obliged to adopt in this regard, [FN25] based on the undertakings they make as parties to international human rights instruments. [FN26]

[FN25] Cf. Case of Trujillo Oroza v. Bolivia. Merits. Judgment of January 26, 2000. Series C No. 64, para. 42; Case of Albán Cornejo et al. v. Ecuador. Merits, Reparations and Costs. Judgment of November 22, 2007. Series C No.171. para. 24, and Case of Kimel v. Argentina, supra note 24, para. 25.

[FN26] Cf. Case of Carpio Nicolle et al. v. Guatemala. Merits, Reparations and Costs. Judgment of November 22, 2004. Series C No. 117, para. 84; Case of Albán Cornejo et al. v. Ecuador, supra note 25, para. 24, and Kimel v. Argentina, supra note 24, para. 25.

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27. Regarding the facts, the Court observes that, in general terms, the State admitted the contextual facts concerning violence against women in Ciudad Juárez, particularly the murders that have been recorded since the beginning of the 1990s, as well as the facts regarding what the State refers to as the “first stage” of the investigations into the crimes perpetrated against the three victims from 2001 to 2003. Furthermore, Mexico has accepted the facts relating to the effects on the mental integrity and the dignity of the next of kin of the three victims.

28. Despite the foregoing, the Court notes that, although the State accepted said facts in general terms, in its subsequent arguments on the merits of the matter, it disputed specific facts relating to the context and to the “first stage” of the investigations. Accordingly, in the following chapters, the Court will determine the entire factual framework of this case and will provide the relevant explanation when it accepts that a fact has been established based on the State’s acceptance, or has been proved by the evidence provided by the parties.

29. As regards the legal claims, the Court declares that the dispute has ceased in relation to the violation of Articles 5(1), 8(1), 25(1) of the American Convention, to the detriment of the victims’ next of kin who have been identified supra para. 9, based on the violations accepted by the State in the “first stage” of the investigations. However, it declares that the dispute subsists concerning the alleged violations of Articles 4, 5, 7, 11 and 19 of the American Convention, in relation to Articles 1(1) and 2 thereof, and of Article 7 of the Convention of Belém do Pará. The dispute also subsists with regard to the alleged violation of Article 5 of the American Convention for facts that differ from those acknowledged by the State, in relation to the victims’ next of kin, as well as in regard to the alleged violation of Articles 8(1) and 25(1) of the Convention, in relation to Articles 1(1) and 2 thereof, with respect to the “second stage” of the investigations.

30. Lastly, regarding the claims for reparations, the State accepted that it had the obligation to make reparation for the violations that it had accepted and indicated a series of measures of redress that it had implemented or offered to implement, which will be considered in Chapter IX of this Judgment, in accordance with the arguments and evidence presented by the parties.

IV. PRELIMINARY OBJECTION (LACK OF JURISDICTION RATIONE MATERIAE OF THE COURT)

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31. The State alleged that the Court did not have jurisdiction to “determine violations” of the Convention of Belém do Pará. This was rejected by the Commission and the representatives, who argued that the Court had jurisdiction in relation to Article 7 of that Convention. The representatives alleged that the Court also has jurisdiction to “examine violations” of Article 9 and “apply Article 8” of that Convention.

32. To decide disputes over the interpretation of norms, the Court has invoked the Vienna Convention on the Law of Treaties, [FN27] which indicates in this regard:

Article 31. General rule of interpretation. (1) A treaty shall be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose.
[…]
Article 32. Supplementary means of interpretation. Recourse may be had to supplementary means of interpretation, including the preparatory work of the treaty and the circumstances of its conclusion, in order to confirm the meaning resulting from the application of Article 31, or to determine the meaning when the interpretation according to Article 31:

(a) leaves the meaning ambiguous or obscure; or
(b) leads to a result which is manifestly absurd or unreasonable.

[FN27] Cf. Case of Ivcher Bronstein v. Peru. Competence. Judgment of September 24, 1999. Series C No. 54, para. 38, and Case of Blake v. Guatemala. Interpretation of the Judgment on Reparations and Costs. Judgment of October 1, 1999. Series C No. 57, para. 21.
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33. The Vienna Convention contains rules that must be interpreted as a whole. The usual meaning of the terms “in good faith,” “object and purpose of the treaty” and the other criteria combine to unravel the meaning of a specific provision. Furthermore, the Court stresses that international human rights law is composed of a series of rules (conventions, treaties and other international documents), and also of a series of values that these rules seek to develop. Therefore, the norms should also be interpreted based on a values-based model that the Inter-American System seeks to safeguard from the perspective of the “best approach” for the protection of the individual. In this regard, when dealing with a case such as this one, the Court must determine the interpretation that is best adapted to the series of rules and values that comprise international human rights law. Specifically, in this case, the Court must establish the values and objectives sought by the Convention of Belém do Pará and make an interpretation that develops them as fully as possible. This requires using all elements of the norm of interpretation in Article 31 cited above (supra para. 32).

34. Based on the foregoing, the Court will first examine its jurisdiction in relation to Article 7 of the Convention of Belém do Pará, and later resolve accordingly with regard to Articles 8 and 9 of this Convention.

1. Contentious jurisdiction of the Court concerning Article 7 of the Convention of Belém do Pará

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1.1. The general rule of explicit jurisdiction and the criterion of literal interpretation

35. The State alleged that the Court can only interpret and apply the American Convention and other instruments that expressly grant it jurisdiction. In addition, it indicated that the Court, "exercising its advisory powers" may "examine and interpret treaties other than" the American Convention but, "when the Court is exercising its contentious jurisdiction, its powers do not extend to giving legal force to other treaties," because "the fundamental principle governing the Court's jurisdiction is the willingness [or express acceptance] of the State to submit to it." It added that the principle of legal certainty "guarantees not only the stability of the Inter-American System" but also "the certainty of the State's obligations deriving from its submission to the international organs for the protection of human rights."

36. The Court considers that the State is correct in affirming that Article 62 of the American Convention established a rule of express jurisdiction, according to which the Court's jurisdiction must be established by "special declaration" or by "special agreement."

37. Mexico alleges that each Inter-American treaty requires a specific declaration granting jurisdiction to the Court. In this regard, the Tribunal stresses that, in Las Palmeras v. Colombia, it ratified the possibility of exercising its contentious jurisdiction with regard to Inter-American instruments other than the American Convention in the context of instruments that establish a system of petitions subject to international supervision in the regional sphere. [FN28] In this regard, the special declaration accepting the contentious jurisdiction of the Court, based on Article 62 of the American Convention, allows the Court to examine violations to such Convention and also to other Inter-American instruments that grant it jurisdiction.

[FN28] Cf. Case of Las Palmeras v. Colombia. Preliminary objections. Judgment of February 4, 2000. Series C No. 67, para. 34.

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38. Consequently, the Court must examine how jurisdiction is established for processing petitions under the Convention of Belém do Pará. The pertinent Articles of this instrument indicate the following:

CHAPTER IV. INTER-AMERICAN MECHANISMS OF PROTECTION

Article 10. In order to protect the right of every woman to be free from violence, the States Parties shall include in their national reports to the Inter-American Commission of Women information on measures adopted to prevent and prohibit violence against women, and to assist women affected by violence, as well as on any difficulties they observe in applying those measures, and the factors that contribute to violence against women.

Article 11. The States Parties to this Convention and the Inter-American Commission of Women may request of the Inter-American Court of Human Rights advisory opinions on the interpretation of this Convention

Article 12. Any person or group of persons, or any non-governmental entity legally recognized in one or more member States of the Organization, may lodge petitions with the

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Inter-American Commission on Human Rights containing denunciations or complaints of violations of Article 7 of this Convention by a State Party, and the Commission shall consider such claims in accordance with the norms and procedures established by the American Convention on Human Rights and the Statute and Regulations of the Inter-American Commission on Human Rights for lodging and considering petitions.

39. The State indicated that said Article 12 “refers expressly and exclusively to the Inter-American Commission as the organ responsible for the safeguard of the Convention through the procedure of individual petitions,” which “leaves no room for doubt” and leads to the conclusion that the Court “lacks jurisdiction” to examine violations of this instrument. It explained that “[i]f the intention of the States […] had been to grant jurisdiction to the Court, not only would they have indicated this [expressly] but, in addition to mentioning the American Convention, the Statute and the Rules of Procedure of the Commission, they would necessarily have also included the Statute and the Rules of Procedure of the Court.”

40. The Court considers that the State’s allegations are incorrect. The Convention of Belém do Pará establishes that the Commission will consider petitions under its Article 7, “in accordance with the norms and procedures established by the American Convention […] and the Statute and Regulations of the Inter-American Commission […] for lodging and considering petitions.” This wording does not exclude any provision of the American Convention, which leads to the inevitable conclusion that the Commission will take action on petitions under Article 7 of the Convention of Belém do Pará “under the provisions of Articles 44 through 51 of [the American Convention],” as established in Article 41 of that Convention. Article 51 of the Convention and Article 44 of the Commission’s Rules of Procedure refer expressly to the submission of cases to the Court when a State has failed to comply with the recommendations contained in the report on merits referred to in Article 50 of the American Convention. Furthermore, Article 19(b) of the Commission’s Statute establishes that the Commission’s powers include: “to appear before the Inter-American Court of Human Rights in cases provided for in the Convention.”

41. In brief, it appears clear that the literal meaning of Article 12 of the Convention of Belém do Pará grants the Court jurisdiction, by not excepting from its application any of the procedural requirements for individual communications.

42. Nevertheless, although the text appears literally clear, it must be analyzed applying all the elements that comprise the rule of interpretation of Article 31 of the Vienna Convention (supra para. 32). The Court has also stated this when indicating that the “usual meaning” of the terms cannot be a rule in itself, but should be examined in the context and, especially, from the perspective of the object and purpose of the treaty, so that the interpretation does not result in a deterioration in the protection system embodied in the Convention. [FN29]

[FN29] Cf. “Other Treaties” Subject to the Advisory Jurisdiction of the Court (Art. 64 American Convention on Human Rights). Advisory Opinion OC-1/82 of September 24, 1982. Series A No. 1, paras. 43 to 48; Restrictions to the Death Penalty (Arts. 4(2) and 4(4) American Convention on Human Rights). Advisory opinion OC-3/83 of September 8, 1983. Series A No. 3, paras. 47

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to 50; Proposed Amendments to the Naturalization Provisions of the Constitution of Costa Rica. Advisory opinion OC-4/84 of January 19, 1984. Series A No. 4, paras. 20 to 24 and, inter alia, Case of Velásquez Rodríguez v. Honduras. Preliminary Objections. Judgment of June 26, 1987. Series C No. 1, para. 30.

1.2. Systematic interpretation

43. The Court emphasizes that, according to the systematic argument, norms should be interpreted as part of a whole, whose meaning and scope must be established in function of the juridical system to which they belong.

44. The State alleged that it "accept[ed] the jurisdiction" of the Court "exclusively for cases relating to the interpretation or application of the American Convention and not for any other international instrument or treaty." Furthermore, Mexico argued that it is possible not to judicialize the petition system included in the Convention of Belém do Pará, taking into account international human rights instruments that "do not establish mechanisms ipso jure for submitting petitions to international tribunals," and that have even established "protocols" that include "ad hoc committees to examine individual petitions." It stressed that "it should not be forgotten that these are not jurisdictional organs but have structures, procedures and powers similar to those of the Inter-American Commission."

45. The Inter-American System includes treaties that make no reference to the processing of individual petitions as a protection mechanism; treaties that allow the processing of petitions, but restrict this to certain rights, and treaties that allow the processing of petitions in general terms.

46. The Inter-American Convention on the Elimination of all Forms of Discrimination against Persons with Disabilities (hereinafter "the CIETFDPD") falls within the first category; its Article VI establishes that a Committee for the Elimination of all Forms of Discrimination against Persons with Disabilities "shall be the forum for assessment of progress made in the application of the Convention." This Convention does not mention the processing of individual petitions denouncing the violation of its provisions.

47. A second category is composed of treaties that grant jurisdiction for processing petitions, but restrict them ratione materiae to certain rights. Thus, for example, Article 19(6) of the Additional Protocol to the American Convention in the Area of Economic, Social and Cultural Rights, "Protocol of San Salvador," permits the submission of petitions only with regard to the right to education and trade union rights.

48. The Inter-American Convention to Prevent and Punish Torture (hereinafter "the CIPST"), the Inter-American Convention on Forced Disappearance of Persons (hereinafter "the CIDFP") and the Convention of Belém do Pará form part of the third category. These treaties contain jurisdictional provisions that differ from those of the American Convention, as explained below.

49. The State alleged that the criteria used by the Court for the "application" of the CIPST and the CIDFP were "not applicable," because these treaties "contain different clauses" to

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Article 12 of the Convention of Belém do Pará, while the latter limits the possibility to the Inter-American Commission alone. Consequently, it applies the interpretative criteria according to which "the express mention of a circumstance excludes all others" and "the special mention precludes an extensive interpretation."

50. The Tribunal observes that Article XIII of the CIDFP indicates that petitions shall be subject to the procedural provisions of the Commission and of the Court; and that because of this, violations to such Convention have been declared in several cases. [FN30]

[FN30] Cf. Case of Gómez Palomino v. Peru. Merits, Reparations and Costs. Judgment of November 22, 2005. Series C No. 136, para. 110; Case of Ticona Estrada et al. v. Bolivia, supra note 24, para. 85, and Case of Anzualdo Castro v. Peru. Preliminary Objection, Merits, Reparations and Costs. Judgment of September 22, 2009. Series C No. 202, para. 61.

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51. Also, Article 8 of the CIPST authorizes access "to the international fora whose jurisdiction has been recognized by [the] State" to which the violation of this treaty has been attributed. This Convention does not mention the Inter-American Court in any of its Articles. Nevertheless, the Court has declared the violation of this treaty in several cases using a means of complementary interpretation (the preparatory work) to overcome the possible ambiguity of the provision. [FN31]

[FN31] Cf. Case of the "Street Children" (Villagrán Morales et al.) v. Guatemala. Merits. Judgment of November 19, 1999. Series C No. 63, paras. 247 and 248.

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52. The Court finds that, contrary to the arguments submitted by Mexico, the Convention of Belém do Pará mentions the Court's jurisdiction even more explicitly than the CIPST, because it alludes expressly to the provisions that allow the Commission to forward said cases to the Court.

53. The State also alleged that, although the Convention of Belém do Pará indicates that the Commission should examine petitions in accordance with the norms and procedures established in the American Convention, "this can only mean that it should abide by the provisions of Section 4 of Chapter VII of the American Convention," because "that is where the rules governing the procedure for an individual petition are established." Mexico alleged that the fact that the Commission is able to submit a case to the Court "should not be confused" with the individual petition procedure. To the contrary, the State indicated that "Article 12 of the Convention of Belém do Pará is the one according to which the Commission exercises its quasi-jurisdictional functions," and that "the fact that the processing of a petition before the Inter-American Commission could give rise to a case before the Court […] does not imply that the procedure before the Commission depends on the proceedings before the Court," which "is evident because the conclusion of a petition is not always a judgment of the Court."

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54. Based on a systematic interpretation, there is nothing in Article 12 to indicate the possibility that the Inter-American Commission should apply Article 51 of the American Convention only partially. It is true that the Inter-American Commission can decide not to forward a case to the Court, but there is no provision in the American Convention or in Article 12 of the Convention of Belém do Pará that prohibits a case being forwarded to the Court if the Commission so decides. Article 51 is clear on this point.

55. The Court reiterates its jurisprudence on the "institutional integrity of the protection system enshrined in the American Convention." This means, on the one hand, that submitting a case to the consideration of the Court with regard to a State Party that has accepted its contentious jurisdiction entails prior examination of the matter by the Commission. [FN32] On the other hand, the jurisdiction assigned to the Commission by Article 41(f) of the Convention encompasses the different procedures that culminate in the submission of an application to the Court in order to receive a jurisdictional decision from the latter. This Article refers to a sphere in which the powers of both the Commission and the Court are streamlined at their respective moments. It should be recalled that the Court is the only judicial body in these matters. [FN33]

[FN32] Cf. Matter of Viviana Gallardo et al. Series A No.G 101/81, paras. 12(b), 16, 20, 21 and 22, and Case of Acevedo Jaramillo et al. v. Peru. Preliminary Objections, Merits, Reparations and Costs. Judgment of February 7, 2006. Series C No. 144, para. 174.
[FN33] Cf. Case of Velásquez Rodríguez v. Honduras. Preliminary Objections, supra note 29, para. 45.

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56. This does not mean that a State Party that has not accepted the compulsory jurisdiction of the Court in accordance with the American Convention, but has ratified the Convention of Belém do Pará, can be subjected to the contentious jurisdiction of this Court. In this case, Article 51 cannot be applied, because the provisions of Article 62 of the American Convention must be complied with before this component of Article 51 can take effect.

57. Nevertheless, the Court reiterates that the jurisdiction that the American Convention confers on the Court ensures that, when a petition system has been established, a guarantee exists that, if appropriate, the Court will exercise judicial control of the matter. This would not be the case under those instruments, such as the CIETFDPD, that do not establish a petition system as a protection mechanism.

58. In conclusion, a systematic interpretation of the relevant provisions in order to resolve this dispute provides even greater support for the contentious jurisdiction of the Court in relation to Article 7 of the Convention of Belém do Pará.

1.3. Teleological interpretation and principle of effectiveness

59. In a teleological interpretation, the purpose of the respective norm is analyzed. To this end, it is pertinent to examine the object and purpose of the treaty itself and, if applicable, to

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analyze the purposes of the regional protection system. In this regard, the systematic and the teleological interpretation are directly related.

60. The State indicated that, although "the object and purpose of the Convention of Belém do Pará is the total elimination of violence against women," "this ultimate purpose should not be mistaken for […] the judicialization of the system of rights and obligations that regulates the instrument."

61. The purpose of the petition system embodied in Article 12 of the Convention of Belém do Pará is to enhance the right of international individual petition, based on certain clarifications concerning the scope of the gender approach. The adoption of this Convention reflects a uniform concern throughout the hemisphere about the severity of the problem of violence against women, its relationship to the discrimination traditionally suffered by women, and the need to adopt comprehensive strategies to prevent, punish and eliminate it. [FN34] Consequently, the purpose of the existence of a system of individual petitions within a convention of this type is to achieve the greatest right to judicial protection possible in those States that have accepted judicial control by the Court.

[FN34] Preamble to the Convention of Belém do Pará.

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62. At this point it is essential to recall the specificity of human rights treaties and the effects that this has on their interpretation and application. On the one hand, their object and purpose is the protection of the human rights of individuals; on the other, they signify the creation of a legal order in which States assume obligations, not in relation to other States, but towards the individuals subject to their jurisdiction. [FN35] In addition, these treaties are applied in keeping with the concept of collective guarantee. [FN36]

[FN35] Cf. "Other Treaties" Subject to the Advisory Jurisdiction of the Court (Art. 64 American Convention on Human Rights), supra note 29, para. 29.

[FN36] Cf. Case of the Constitutional Court v. Peru. Competence. Judgment of September 24, 1999. Series C No. 55, para. 41, and Case of Ivcher Bronstein v. Peru, supra note 27, para. 42.

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63. In the instant case, the State indicated that the teleological interpretation arises from the fact that, while Article 12 fails to mention the Court, "Article 11 grants it exclusive jurisdiction to issue advisory opinions." This indicates that "the intention of the parties to the treaty was precisely to delimit the powers of the Court to its advisory function." The Commission and the representatives indicated that the Court cannot refrain from exercising jurisdiction to hear cases relating to violations of the Convention of Belém do Pará, because this would be contrary to the "principle of effectiveness." In this regard, the State indicated that "the Convention already ensures effectiveness and the application of this principle does not imply that the Court exercises its jurisdiction over [that Convention]"; because this would "deny or question" the functions performed by the Inter-American Commission of Women and the Inter-American Commission

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on Human Rights within the framework of the mechanisms of protection established by the Convention of Belém do Pará.

64. The State's allegation that the Court does not have compulsory jurisdiction, because Article 11 of the Convention of Belém do Pará only grants advisory jurisdiction to the Court, does not support that position but, to the contrary, contradicts it. Indeed, the advisory jurisdiction is not included in Articles 44 to 51 of the American Convention, so that it had to be established expressly in another provision.

65. Regarding the principle of effectiveness, the Court reiterates what it indicated in its first judgment, to the effect that the inherent purpose of all treaties is to be effective. [FN37] This is applicable to the provisions of the American Convention related to the authority of the Commission to submit cases to the Court and this is one of the provisions referred to by the Convention of Belém do Pará.

[FN37] Cf. Case of Velásquez Rodríguez v. Honduras. Preliminary Objections, supra note 29, para. 30.

1.4. Complementary interpretation criteria; the preparatory work for the Convention of Belém do Pará

66. The State affirmed that "the representatives of the States discussed extensively the way in which violations could be claimed […], concluding that the Commission would be the only competent body to hear such complaints," and expressing their "disagreement with granting jurisprudential powers to the Inter-American Court to review possible violations" of said Convention. In addition, according to the State, the Article included in the draft of this Convention that authorized the Court to hear violations thereof, "was not included in the final version of the [C]onvention." Furthermore, it indicated that "the authority to accept the compulsory jurisdiction of a court is a sovereign act of each State with no limits other than the will of the State." It concluded that "it is evident that it was the intention of the signatory States to define the exclusive jurisdiction of the Commission to hear individual petitions concerning alleged violations of [this] Convention."

67. The Commission refuted the State's arguments concerning the travaux préparatorires for the Convention of Belém do Pará and considered that "the States never discussed […] the possibility of excluding the material jurisdiction of the Court […] to examine non-compliance with the obligations arising from [said] Convention." The representatives did not offer any arguments on this point.

68. The Court observes that the Vienna Convention requires reference to the preparatory work only in a subsidiary manner. In this case, it would not be necessary, bearing in mind the points examined above. Despite this, the Court will examine the preparatory work in order to respond to the arguments submitted by the State.

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69. The “text approved by the majority” during the “Inter-governmental Meeting of Experts” convened in October 1993 to revise the draft of the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women, indicated the following:

Article 15. Any State Party may, at any time and in accordance with the norms and procedures stipulated in the American Convention on Human Rights, declare that it accepts as obligatory, automatically and without any special convention, the jurisdiction of the Inter-American Court of Human Rights over all the cases relating to the interpretation or application of the present Convention. [FN38]

[FN38] Cf. Inter-American Commission of Women, VI Extraordinary Assembly of Delegates, Initial Preliminary Text and Last Version of the Draft Text for the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Item 1), OEA/Ser.L/II.3.6 CIM/doc.9/94, April 13, 1994, p. 16.

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70. On October 26, 1993, the Mexican delegation submitted a proposal concerning the competence of the Inter-American Commission on Human Rights and of the Inter-American Commission of Women (hereinafter the “CIM”). [FN39] In particular, Mexico’s proposal was aimed at creating a committee on the elimination of violence against women that would assist the CIM, in the examination of national reports, and that would review claims or complaints regarding the Convention, offering “an opinion on [said complaints] to [the CIM], with a view to lodging the cases before the Inter-American Commission on Human Rights.” [FN40] The Brazilian delegation indicated that it “reserved its position” towards said Article 15 of the draft convention. [FN41]

[FN39] Cf. Inter-American Commission of Women, Preliminary Report of the Second Session of the Inter-governmental Meeting of Experts to Consider the Draft Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women, OEA/Ser.L/II.7.5 CIM/Recovi/doc.36/93 corr.2, April 14, 1994. See, in particular, Attachment I, Working Group II, Proposed reforms presented by the delegation of Mexico to Articles 13 to 16 of chapter IV of the draft Convention, WG-II/doc. 5/93 October 26, 1993, pp. 12 and 13.
[FN40] Cf. Inter-American Commission of Women, Attachment I, Working Group II, Proposed reforms presented by the delegation of Mexico to Articles 13 to 16 of chapter IV of the draft Convention, supra note 39, p. 13.
[FN41] Cf. Inter-American Commission of Women, VI Extraordinary Assembly of Delegates, supra note 38, p. 16.

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71. In addition, one of the documents examined during the VI Extraordinary Assembly of Delegates that analyzed the draft convention in 1994, includes the comments made by several Governments on such document. [FN42] Trinidad and Tobago supported the Mexican proposal, while Antigua and Barbuda, Bahamas, Colombia, Costa Rica, Ecuador, El Salvador, Guatemala, Paraguay, Saint Lucia, Uruguay and Venezuela expressed their agreement with the draft

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convention. Chile submitted observations that were not related to the protection mechanisms. St. Kitts and Nevis "reserv[ed] the right to take a decision on Articles 13 to 15 of the draft convention and on the proposed amendments to it." Barbados and Dominica stated that they understood that the individual petition process was regulated by the American Convention. Peru considered pertinent a "draft procedure that should be followed before the IACHR" or "the establishment of an ad hoc rapporteur for the specific case of the complaints."

[FN42] Cf. Inter-American Commission of Women, VI Extraordinary Assembly of Delegates, Comments received from Governments on the Draft Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Item 1), OEA/Ser.L/II.3.6 CIM/doc.4/94, April 4, 1994.

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72. On April 19, 1994, the CIM delegates met to discuss the draft Convention and proceeded to a nominal vote on the different Articles. Twenty-two OAS member countries participated. Regarding draft Article 15, the result of the vote was: "16 votes in favor, one against and four abstentions." [FN43] The "summary record" of this vote indicated that the Article "was not approved" because "18 votes in favor were required to approve a motion." The Court observes that it is incorrect to say that a majority was not in favor of approving this Article; it was merely that it did not obtain a sufficient number of votes.

[FN43] Cf. Inter-American Commission of Women, VI Extraordinary Assembly of Delegates, Summary of Proceedings of the Second Plenary Session, OEA/Ser.L/II.3.6 CIM/doc.24/94, rev.1, June 6, 1994. The following countries voted in favor: Argentina, Barbados, Bolivia, Chile, Colombia, Dominica, Dominican Republic, Ecuador, Guatemala, Nicaragua, Paraguay, Peru, St. Kitts and Nevis, Trinidad and Tobago, Venezuela and Uruguay. The only country that voted against was Brazil. Mexico, the United States of America, Canada and Jamaica abstained from voting.

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73. Accordingly, inasmuch as it relates to a subsidiary method of interpretation, the preparatory works are completely insufficient to provide solid grounds to reject the interpretation made of Article 12 of the Convention of Belém do Pará. Thus, the Court has used all the principal elements of interpretation of the Vienna Convention.

1.5. Effects of the precedent established in the judgment in the case of the Miguel Castro Castro Prison

74. The State indicated that, in the case of the Miguel Castro Castro Prison v. Peru, the Court "did not analyze its jurisdiction to hear cases relating to the Convention of Belém do Pará"; consequently, "there is no evidence of the grounds on which it exercised its jurisdiction." In addition, it argued that the fact that, in said case, "no objection was raised to the Court's jurisdiction and that the Court did not examine this, should not impede the Court from accepting the State's objection" in the instant case and "declaring its lack of jurisdiction."

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75. In the case of the Miguel Castro Castro Prison, the Court declared that the Convention of Belém do Pará had been violated, which is equivalent to declaring its jurisdiction over that Convention. Furthermore, the Court emphasizes that it was not only in this case that it established its jurisdiction in this regard. Indeed, in Ríos et al. v. Venezuela and Perozo et al. v. Venezuela, although the Court declared that "it [was] not correct to analyze the facts of the [said cases] under the […] stipulations of the Convention of Belém do Pará," [FN44] because it had not been proven that the attacks were "especially addressed against women" or "were based on their condition of being women," [FN45] such conclusion that no violation had been committed was possible based on an analysis of said Convention, and reveals the Court's jurisdiction over it.

[FN44] Case of Ríos et al. v. Venezuela. Preliminary Objections, Merits, Reparations and Costs. Judgment of January 28, 2009. Series C No. 194, para. 280, and Case of Perozo et al. v. Venezuela, supra note 22, para. 296.
[FN45] Case of Ríos et al. v. Venezuela, supra note 44, para. 279, and Case of Perozo v. Venezuela, supra note 22, paras. 295 and 296.

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76. Consequently, although it is true that an exhaustive analysis was not made of the Court's jurisdiction to examine violations of Article 7 of the Convention of Belém do Pará in the case of the Miguel Castro Castro Prison v. Peru, at the time, it was found unnecessary owing to the absence of a dispute between the parties. In this case, in which Mexico has questioned this jurisdiction, the Court has explained the reasons that led it to reaffirm its jurisprudence in the matter.

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77. The foregoing leads to the conclusion that the combination of the systematic and teleological interpretations, the application of the principle of effectiveness, added to the sufficiency of the literal criterion in this case, allow the Court to ratify its compulsory jurisdiction as regards examining violations of Article 7 of the Convention of Belém do Pará.

2. The Court's lack of jurisdiction in relation to Articles 8 and 9 of the Convention of Belém do Pará

78. The Inter-American Commission did not allege that the Court had contentious jurisdiction with regard to Articles 8 and 9 of the Convention of Belém do Pará. However, the representatives referred to this jurisdiction, taking into account the "direct relationship" of Article 9 with Article 7 of that Convention, based on a "pro personae interpretation" of Article 12 and on the principle of effectiveness. They added that the Court should "consider the two Articles together in order to examine the alleged violations."

79. The Court finds that the systematic and teleological criteria are insufficient to give them preference over what is clearly indicated by the literal meaning of Article 12 of the Convention

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of Belém do Pará, which establishes that the petition system shall relate exclusively to possible violations of Article 7 of the Convention. In this regard, the Court underscores that the principle of the most favorable interpretation cannot be used as a basis for an inexistent normative principle; in this case, the integration of Articles 8 and 9 into the literal meaning of Article 12. And this is despite the fact that the different Articles of the Convention of Belém do Pará may be used to interpret it and other pertinent Inter-American instruments.

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80. Based on the foregoing, the Court decides to partially accept the preliminary objection filed by the State and, consequently, to declare that: (a) it has compulsory jurisdiction rationae materiae to examine violations of Article 7 of the Convention of Belém do Pará, and (b) it does not have compulsory jurisdiction rationae materiae to examine alleged violations of Articles 8 and 9 of this international instrument.

V. JURISDICTION

81. Under Article 62(3) of the Convention, the Inter-American Court has jurisdiction to hear this case, because Mexico has been a State Party to the American Convention since March 24, 1981, and accepted the compulsory jurisdiction of the Court on December 16, 1998. Furthermore, the State ratified the Convention of Belém do Pará on November 12, 1998.

VI. EVIDENCE

82. Based on the provisions of Articles 44 and 45 of the Rules of Procedure, and also on the Court's jurisprudence regarding evidence and its assessment, [FN46] the Court will examine and evaluate the documentary probative elements forwarded by the parties at different procedural occasions, as well as the testimony rendered by affidavit and at the public hearing. To this end, the Court will abide by the principles of sound judicial discretion, within the corresponding normative framework. [FN47]

[FN46] Cf. Case of the "White Van" (Paniagua Morales et al.) v. Guatemala. Reparations and Costs. Judgment of May 25, 2001. Series C No. 76, para. 50; Case of Acevedo Buendía et al. ("Discharged and Retired Employees of the Office of the Comptroller") v. Peru. Preliminary Objections, Merits, Reparations and Costs. Judgment of July 1, 2009. Series C No. 198, para. 22, and Case of Escher et al. v. Brazil. Preliminary Objections, Merits, Reparations and Costs. Judgment of July 6, 2009. Series C No. 199, para. 55.
[FN47] Cf. Case of the "White Van" (Paniagua Morales et al.) v. Guatemala, supra note 46, para. 76; Case of Reverón Trujillo v. Venezuela. Preliminary Objections, Merits, Reparations and Costs. Judgment of June 30, 2009. Series C No. 197, para. 26, and Case of Escher et al. v. Brazil, supra note 46, para. 55.

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1. Testimonial evidence and expert opinions

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83. The written statements of the following witnesses and expert witnesses were received:

a) Luis Alberto Bosio. Witness proposed by the Commission. He testified, inter alia, about "the forensic medicine investigations, and the medical forensic anthropology appraisals he had made of some of the osseous remains found in the so-called 'Cotton Field' between November 6 and 7, 2001; the conclusions he reached, and the compatibility of the previous examination of the same remains with the relevant applicable international standards."
b) Mercedes Doretti. Witness proposed by the Commission. She testified, inter alia, about "the investigations carried out by the EAAF [Argentine Forensic Anthropology Team] in relation to the murders of women and girls committed in the State of Chihuahua, Mexico; the procedure for identifying victims of such crimes; the conduct and the level of collaboration of the authorities with these investigations, and the conclusions reached by the EAAF based on their investigations."
c) Carlos Castresana Fernández. "[M]ember of the team of the United Nations Office on Drugs and Crime (UNODC) that, in 2003, supervised the domestic investigations into the murders of women and girls in Ciudad Juárez, including the Cotton Field cases." Expert witness proposed by the Commission. He testified, inter alia, about "due diligence in the investigation procedures for crimes of this nature, and the investigations conducted in the Cotton Field cases in light of the relevant applicable international standards."
d) Servando Pineda Jaimes. "Director of the Social Science Faculty of the Universidad Autónoma de Ciudad Juárez." Expert witness proposed by the Commission. He testified, inter alia, about "the causes and consequences of the disappearances and murders of women and girls in the State of Chihuahua, and the socio-cultural patterns that condition police and judicial proceedings in cases of this nature."
e) Clyde Snow. "Forensic anthropologist." Expert witness proposed by the Commission. He testified, inter alia, about "the international standards applicable to the identification of the remains of victims of violent crimes; the proper preservation of essential evidence in this type of case, [and] the procedure for performing genetic identification of human remains."
f) Oscar Máynez Grijalva. Witness proposed by the representatives. He testified, inter alia, about "the procedure to remove the bodies from the place they were found, the institutional management of the case during the time he worked as a public servant, the [supposed] pressure of the authorities to obtain a prompt response; the [alleged] anomalies and irregularities of which he is aware; the reason why he resigned; [and] the [alleged] pressure exercised by the authorities."
g) Ana Lorena Delgadillo Pérez. Witness proposed by the representatives. She testified, inter alia, about "the institutional performance of the local and federal authorities involved in the investigation and prosecution of the case; the type of services provided to the next of kin of the victims by the different Government agencies that intervened in the case, and how these agencies treated them; the [alleged] difficulties of the families [to obtain] access to justice; the inter-institutional collaboration among the different authorities, [and] the need for efficient national mechanisms to search for women who disappear."
h) Abraham Hinojos. Witness proposed by the representatives. He testified, inter alia, about supposedly "valuable elements, especially [the] elements that contribute to impunity in this case: victims and fabrication of guilty parties."
i) Rosa Isela Pérez Torres. Witness proposed by the representatives. She testified, inter alia, about "[her documentation of] the violence against women in Ciudad Juárez and the

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[supposedly] irregular actions of the local and federal authorities," and "the [alleged] influence of the [s]tate government in the management of information in the media about violence against women, particularly about the murders of women registered since 1993."

j) Elizabeth Lira Kornfeld. "Expert in social psychology." Expert witness proposed by the representatives. She testified, inter alia, about "the criteria and mechanisms for repairing the damage caused to victims of violence against women, especially the families of women victims of murder" and about "guidelines to mitigate the aftereffects of psychological torture on the families who are victims, based on criteria of community mental health and human rights."

k) Jorge de la Peña Martínez. "Psychiatrist." Expert witness proposed by the representatives. He testified, inter alia, about the "[alleged] psychological harm caused to Josefina González and Benita Monárrez and their families as a result of the [presumed] disappearance and murder of their daughters, linked to the [supposed] institutional violence they encountered."

l) Fernando Coronado Franco. "Expert in Mexican criminal law and international human rights law." Expert witness proposed by the representatives. He testified, inter alia, about "the role and the actions of the Public Prosecutor's Office and the Judiciary in the 'cotton field' case; the [alleged] main obstacles to access to justice and the development of democratic criminal legislation as a result of the constitutional amendments; the [supposed] impact of these amendments on the laws of the states, including, the State of Chihuahua; the impact of the absence of an accusatory system, and the [alleged] absence of controls over the actions of the [P]ublic [P]rosecutor's [O]ffice in the Cotton Field case; the factual powers that [supposedly] made it impossible to obtain a successful result in the investigations in the Cotton Field case; the [alleged] absence of effective mechanisms for the protection and promotion of human rights in the Mexican State, and the [alleged] impact of this on both the victims and those who were probably responsible."

m) Elena Azaola Garrido. "[E]xpert in psychology, gender perspective, rights of the child and victimization processes." Expert witness proposed by the representatives. She testified, inter alia, about "the [supposed] process of victimization of the next of kin of the victims of murder and disappearance related to the Cotton Field case, the [alleged] impact on their lives and the [presumed] harm caused" and about "the [alleged] psychological damage caused to Mrs. Irma Monreal Jaime and her family owing to the [presumed] disappearance and murder of Esmeralda Herrera Monreal, linked to the [alleged] institutional violence they encountered."

n) Marcela Patricia María Huaita Alegre. "[E]xpert on gender violence and the right of women to access to justice." Expert witness proposed by the representatives. She testified, inter alia, about "the [alleged] problems encountered by the families involved in the 'cotton field' case to have access to justice, the [supposed] discriminatory conduct of the authorities when dealing with cases of violence against women, the [alleged] absence of gender policies in the provision and administration of justice, the [supposed] absence of budgets with a gender perspective, [and] the [alleged] absence of state and national strategies to investigate paradigmatic cases of violence against women that could be linked to sexual exploitation or trafficking."

o) Marcela Lagarde y de los Ríos. "[E]xpert in women's human rights, gender perspective and public policies." Expert witness proposed by the representatives. She testified, inter alia, about "the [alleged] absence of a gender policy in Ciudad Juárez and Chihuahua, as well as in the rest of the Mexican [S]tate; the [supposed] difficulties that women face to obtain access to services provided by the State, the [supposedly] gender-based discriminatory policies; the [alleged] failure to prevent gender violence; the role of the legislature in the creation of gender policies, the role of the legislature as a body that supervises institutional actions, [and] the

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different types and methods of violence that women have faced in Ciudad Juárez, specifically the [alleged] victims of disappearance and murder, and their next of kin."

p) Clara Jusidman Rapoport. "Expert in public policies and gender." Expert witness proposed by the representatives. She testified, inter alia, about the assessment that [she] made in Ciudad Juárez and Chihuahua, indicating the main obstacles that the public administration of Ciudad Juárez [presumably] faces as a result of the [supposed] absence of public policies with a gender perspective; the [alleged] impact of the [alleged] absence of national public policies with a gender perspective; the principal errors made on gender issues by state and national authorities, [and] the social, political and economic context of violence against women that Ciudad Juárez experiences."

q) Julia Monárrez Fragoso. "[E]xpert in gender-based violence […] who has studied the context of gender violence in Ciudad Juárez for many years." Expert witness proposed by the representatives. She testified, inter alia, about "the [supposed] femicides in Ciudad Juárez and, specially, about the [alleged] systematic pattern of femicide involving sexual abuse; the [alleged] incompetence of the authorities when investigating cases with a similar pattern of violence; the [alleged] lack of access to information or to clear systematized information, which prevents carrying out research based on official data; the way the State has handled providing society with information on the number of women murdered [and] the number of women who have disappeared; the [alleged] playing down of the situation by the authorities in the face of the context of violence against women; the role of government and non-governmental agencies in providing services to the next of kin of the women who have disappeared or who have not been identified; the role of the people of Ciudad Juárez faced with the context of violence against women; the political and social agents who [supposedly] permitted the context of violence against women; [and] the reaction of the private sector, the media, the Church and other sectors of society to the [alleged] femicides."

r) Mara Galindo López. Witness proposed by the State. She testified, inter alia, about "[t]he functions of the agency [that provides services to victims attached to the Office of the Deputy Attorney General for the Northern District of the state of Chihuahua]; [t]he [alleged] pecuniary support provided to the next of kin of Claudia Ivette González, Laura Berenice Ramos Monárrez and Esmeralda Herrera Monreal; and [t]he [supposed] non-pecuniary services provided to the next of kin of Claudia Ivette González, Laura Berenice Ramos Monárrez and Esmeralda Herrera Monreal."

s) Flor Rocío Murguía González. Witness proposed by the State. She testified, inter alia, about "[t]he development, by the Public Prosecutor´s Office, of the investigations in relation to the deaths of Claudia Ivette González, Laura Berenice Ramos Monárrez and Esmeralda Herrera Monreal, and [t]he directives concerning the investigation issued by the Office [of the Special Prosecutor for the Investigation of the Murders of Women in Juárez,] under her responsibility."

t) Eberth Castañón Torres. Witness proposed by the State. He testified, inter alia, about "[t]he expert appraisals made in connection with the investigations into the deaths of Claudia Ivette González, Laura Berenice Ramos Monárrez and Esmeralda Herrera Monreal"; and the "[alleged] progress and results obtained by forensic genetics in the State of Chihuahua, especially in Ciudad Juárez, owing to the implementation of the new criminal justice system and improvements in forensics."

u) Luisa Fernanda Camberos Revilla. Witness proposed by the State. She testified, inter alia, about "[t]he comprehensive policy implemented by the government of the state of Chihuahua to prevent, investigate, punish and eliminate violence against women; [t]he results of the programs

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to prevent, investigate, punish and eliminate violence against women implemented by the government of the state of Chihuahua, and the [alleged] pecuniary and non-pecuniary support granted by the [Chihuahua Women's] Institute to the next of kin of women victims of crime, especially the support provided to the next of kin of Claudia Ivette González, Laura Berenice Ramos Monárrez and Esmeralda Herrera Monreal."

v) María Sofía Castro Romero. Witness proposed by the State. She testified, inter alia, about "[t]he creation and functioning of the Commission to Prevent and Eliminate Violence against Women in Ciudad Juárez, [and t]he results of the intervention of this Commission in the programs to prevent and to deal with violence against women in Chihuahua, especially in Ciudad Juárez."

84. Regarding the evidence provided during the public hearing, the Court received the testimony of the following persons:

a) Josefina González Rodríguez. Mother of Claudia Ivette González and alleged victim. Witness proposed by the Commission. She testified, inter alia, about "the different steps taken by the family of [Claudia Ivette] during the period immediately following her [alleged] disappearance; the authorities' attitude and response to these measures; the way the domestic investigations were conducted following the discovery of her daughter's remains; the [supposed] obstacles faced by [Claudia Ivette's] family in their search for justice in this case; [and] the [alleged] consequences for her personal life and for her family of the [alleged] human rights violations that her daughter suffered."

b) Irma Monreal Jaime. Mother of Esmeralda Herrera Monreal and alleged victim. Witness proposed by the Commission. She testified, inter alia, about "her [supposed] history of victimization owing to the [presumed] disappearance of her daughter, the measures taken; the [alleged] violations committed against her by the Mexican authorities, their response, attitude and the [alleged] harm caused; the [supposed] tortuous and convoluted procedure to identify [her daughter Esmeralda]; the conduct of the investigations; the [alleged] obstacles and the denial of justice; the management of the fund set up by the state Attorney General's Office and the [Office of the Attorney General of the Republic]; the impact on her life and that of her family owing to the [alleged] process of victimization; the management of the other support provided by the government; the [alleged] lack of access to information; the [supposed] absence of legal support and advice to advance the investigations; the [alleged] negligence of the authorities; the process she had to follow to access the Inter-American System, [and] the [alleged] pressure exercised by the authorities."

c) Benita Monárrez Salgado. Mother of Laura Berenice Ramos Monárrez and alleged victim. Witness proposed by the Commission. She testified, inter alia, about "her [supposed] history of victimization owing to the [presumed] disappearance of her daughter, the measures taken, the [alleged] violations she suffered from the Mexican authorities, their response, attitude, and the harm caused; the [supposed] tortuous and convoluted procedure to identify [her daughter Laura]; the way the investigations were conducted; the [alleged] obstacles and the denial of justice; the management of the fund set up by the state Attorney General's Office and the [Office of the Attorney General of the Republic]; the impact on her life and that of her family owing to the [alleged] process of victimization; the handling of the other support provided by the government; the [alleged] lack of access to information; the [supposed] absence of legal support and advice to promote the investigations; the [presumed] negligence of the authorities; the

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process she had to follow to access the Inter-American System, [and] the [alleged] pressure exercised by the authorities."
d) Rhonda Copelon, law professor, specialist, inter alia, in human rights, international criminal law, gender, and violence against women. Expert witness proposed by the Commission. She testified, inter alia, about "the problem of violence against women in general; her connection with the discrimination traditionally experienced; the need for enhancing institutional capacities and adopting comprehensive strategies to prevent, punish and eliminate discrimination, and improving access to justice for victims of gender-based violence." Following her oral statement, the expert witness forwarded the Court a written version of her expert opinion.
e) Rodrigo Caballero Rodríguez. Witness proposed by the State. He testified, inter alia, about "[t]he measures taken for the development, by the Public Prosecutor's Office, of the investigations into the deaths of Claudia Ivette González, Laura Berenice Ramos Monárrez and Esmeralda Herrera Monreal during the second stage of the investigations; [t]he results obtained from th[ese] inquiries, and [t]he measures underway and pending implementation."
f) Silvia Sepúlveda Ramírez. Witness proposed by the State. She testified, inter alia, about "[t]he expert appraisals made during the investigations into the death of Claudia Ivette González, Laura Berenice Ramos Monárrez and Esmeralda Herrera Monreal; and [the p]rogress and results in the field of forensic genetics in the state of Chihuahua, especially in Ciudad Juárez, arising from the implementation of the new criminal justice system and reforms in forensics."
g) Rosa Isela Jurado Contreras. "Judge of the Sixth Criminal Chamber of the Supreme Court of Justice of Chihuahua." Expert witness proposed by the State. She testified, inter alia, about "[t]he amendments to the law, and the operation of the new criminal justice system in the state of Chihuahua, as well as on its results and potential."

2. Assessment of the evidence

85. In this case as in others, [FN48] the Court admits the probative value of those documents presented by the parties at the appropriate opportunity that were not contested or opposed and whose authenticity was not questioned, as well as the documents requested as evidence to facilitate adjudication of the case and those that refer to supervening facts.

[FN48] Cf. Case of Velásquez Rodríguez v. Honduras. Preliminary Objections, supra note 29, para. 140; Case of Ríos et al. v. Venezuela, supra note 44, para. 81, and Case of Perozo et al. v. Venezuela, supra note 22, para. 94.
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86. Regarding the testimony and the expert opinions, the Court considers them pertinent to the extent that they correspond to the purpose defined by the President in the order requiring them (supra para. 10), which will be assessed in the corresponding chapter. With regard to the statements of the victims, since they have an interest in this case, their testimony must be assessed together with all the evidence in the proceedings, rather than alone. [FN49]

[FN49] Cf. Case of Loayza Tamayo v. Peru. Merits. Judgment of September 17, 1997. Series C No. 33, para. 43; Case of Valle Jaramillo et al. v. Colombia. Merits, Reparations and Costs.

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Judgment of November 27, 2008. Series C No. 192, para. 54, and Case of Reverón Trujillo v. Venezuela, supra note 47, para. 45.
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87. The State contested the expert opinions of Mr. Castresana and Mr. Snow, and also the testimony of Mr. Bosio, Mr. Hinojos and Mrs. Delgadillo Pérez, because they referred to individuals who are not included in this litis. In this regard, the Court reiterates that, according to the order of January 19, 2009 (supra para. 9), the situation of individuals not included in this case may be used:

[A]s relevant evidence when assessing the alleged context of violence against women, the supposed flaws in the investigations conducted in the domestic sphere and other aspects denounced to the detriment of the three alleged victims identified in the application. [FN50]

[FN50] Cf. Case of González et al. ("Cotton Field") v. Mexico, supra note 4, forty-sixth considering paragraph.
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88. The State contested the testimony of the expert witness Castresana Fernández, alleging that he had not taken part in the measures taken by the State since 2003. In this regard, when examining the merits of the case, the Court will asses whether the evidence supports the opinion of the expert witness.

89. The State contested the opinion of expert witness Pineda Jaimes, affirming that it was biased and lacked expertise in the area in which he gave his opinion. It also indicated that the information he provided had not been organized methodologically in order to provide impartial and specialized elements, and that his conclusions concerning the measures and parameters to make reparation for damage, and the rights of human rights defenders exceeded the purpose of his expert opinion. In this regard, the Court considers that the State has not presented grounds for the alleged partiality that would indicate the presence of one of the causes of impediment provided for in Article 19 of the Statute. Regarding the conclusions of the expert witness that might exceed the purpose of his opinion, the Court finds them useful for this case, and therefore admits them under Article 45(1) of the Rules of Procedure.

90. The State indicated that, in his expert opinion, Mr. Snow made general observations that should not be taken into account. In this regard, the Court will examine the supposed general observations of the expert witness when analyzing the merits of the case and will verify that they are supported by the other evidence.

91. Regarding expert witness Copelon, the State indicated that her written opinion (supra para. 84.d) went beyond what the President had expressly permitted during the public hearing, and that the expert had alluded to situations that had presumably occurred in Ciudad Juárez "without having the expertise to do so"; consequently, it asked the Court to reject certain sections of the expert opinion. In this regard, the Court will not take into account the statements made by the expert witness that exceed the purpose defined by the President at the public hearing.

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Regarding her “expertise,” the Court will assess whether the assertions made by the expert bear a relationship to the rest of the evidence when examining the merits of the case.

92. The State questioned the expert opinion of Mrs. Lira Kornfeld on the basis of partiality, absence of methodology, and lack of familiarity with the case, affirming that the expert witness had based her opinion on psychological reports prepared by others and on testimony presented in nine similar cases, and also that the expert witness had made certain accusations against the State with regard to the administration of justice. The Court does not find that referring to the testimony of other victims or to reports of other professionals signifies an absence of methodology, especially if said testimony and reports related to the problems examined in this case. Moreover, the Court recalls that, unlike witnesses, expert witnesses may provide technical or personal opinions to the extent that such opinions are related to their expertise or experience. In addition, expert witnesses may refer to specific elements of the litis and also to any factor that is relevant to the litigation, provided they confine themselves to the purpose for which they were convened. [FN51]

[FN51] Cf. Case of González et al. (“Cotton Field”) v. Mexico, supra note 6, seventy-fifth considering paragraph.

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93. In relation to the expert opinion of Mr. de la Peña Martínez, the State maintained that “although the observations of the expert witness could be of value, the Tribunal cannot taken them into consideration because the methodology used by the deponent reveals that he never entered into direct contact with the victims or evaluated the measures taken by the State to repair the psychological harm, which, in any case, demonstrates the subjectivity of his statements.” The Court agrees with the State that a direct interview with the alleged victims would have provided the expert with more information to make his expert appraisal. However, the absence of a direct interview is not sufficient reason for rejecting the expertise, but rather a factor that has an impact on its probative value. Accordingly, the Court admits and will assess it together with the rest of the evidence in the case file.

94. Regarding the testimony of Mr. Coronado Franco, the State criticized that the expert opinion was based on the Commission’s application, the representatives’ brief and criminal cases Nos. 426/01, 48/01 and 74/04, and did not take into account the information provided by the State, or explain the relationship of these criminal actions with the instant case. The Court finds that the fact that the expert witness failed to take into account the information provided by State is not a reason to reject the expert appraisal. In this situation, the Tribunal must consider the expert witness’s opinion, compare it with the arguments and evidence provided by the State, and extract the conclusions yielded by logic and sound judicial discretion, and it will do so when examining the merits of the case.

95. With regard to the testimony of Mrs. Azaola Garrido, the State indicated that, the curriculum vitae of the expert witness “reveals her unfamiliarity and inexperience with regard to the discipline of psychoanalysis, post-traumatic stress syndrome, and assessment of harm to the physical and mental health of the individual.” The State did not ask the Court to reject this

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opinion; consequently, the Court will assess it together with the rest of the evidence in the case file, taking into account the State's observations and the expert's curriculum vitae.

96. Regarding the expert opinion of Mrs. Huaita Alegre, the State indicated that "it is not based on specialized knowledge […] but rather on the [C]ommission's decisions"; it does not reveal the supposed discriminatory conduct of the authorities in the administration of justice after 2003, and the expert witness asked that the Court "declare the responsibility of the State for not having acted with due diligence, while it was not the purpose of her appraisal to judge the State's actions." If necessary, the Tribunal will assess the sources on which the expert witness based her conclusions and the lapse in time to which her opinion refers, when examining the merits of the case.

97. In relation to Mrs. Lagarde y de los Ríos, the State presented a series of doubts about the data provided by the expert witness, and asked the Court to consider them when establishing the probative value of the expertise. When it examines the merits of the case, the Court will analyze the expert opinion in conjunction with the other evidence in the case file, taking into account the State's observations.

98. Regarding the expert opinion of Mrs. Jusidman Rapoport, the State indicated that it contained outdated information and therefore asked the Court to reject it. The Court finds that, even if the opinion contains outdated information, this is not sufficient reasons to reject it, but to assess it within the time span to which it refers and taking into account the newer evidence that the parties have provided. Moreover, the Tribunal observes that the expert witness expanded motu propio the purpose of her opinion, and no objection was raised by the parties. In view of the foregoing, and considering that the expansion is helpful in the instant case, the Court accepts it, pursuant to Article 45(1) of the Rules of Procedure.

99. As regards expert witness Monárrez Fragoso, the State objected that the expert opinion was based on a research project carried out for a purpose other than the opinion; that the expert witness referred to cases that were not included in the instant proceedings; that the statistical data presented by the expert witness had not been updated and also, according to the State, that some of the terminology used by the expert witness does not exist in domestic legislation. The Tribunal finds that the initial purpose of the research carried out by the expert witness has no impact on the probative value of her expert opinion; that the cases to which the expert witness refers are relevant to assess the context of this case; that the opinion will be taken into consideration within the time span to which it refers, and that the issues relating to terminology and probative value will be examined together with the merits of the case.

100. Regarding the testimony of Mrs. Castro Romero, the representatives contradicted several of her assertions; if pertinent, this will be assessed by the Court together with the merits of the case.

101. With regard to the testimony of Mr. Bosio, the State indicated that the witness had analyzed some of the forensic medicine reports on the bodies found in the Cotton Field in 2001 and that "the witness cannot confirm the elaboration of these reports directly, because he only intervened in the case in 2005"; that the Commission should have proposed his statement as an

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expert opinion and not as testimony, and that the witness had arrived at conclusions that "he cannot confirm and that are not his own." In this regard, the Court reiterates that a witness may refer to facts and circumstances that he is aware of in relation to the purpose of his testimony and should avoid giving personal opinions; [FN52] hence, the Court will not take into consideration any aspect which is merely an opinion of witness Bosio.

[FN52] Cf. Case of González et al. ("Cotton Field") v. Mexico, supra note 6, forty-seventh considering paragraph.

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102. Regarding the testimony of Mrs. Doretti, the State contested it because "it presents confidential information that could affect the investigation into the murders" of the alleged victims. In this regard, the Court confirms the contents of the order of the President of March 18, 2009 (supra para. 10), which reads:

For the effects of the international proceedings before this Court, the conflict of rights between the obligation of confidentiality and the international public interest to clarify the facts relating to the scope of the attribution of responsibility to the State is resolved by offering the greatest possible protection to the witnesses who appear before the Court so that their testimony can be given with the greatest freedom. In this regard, the State's defense cannot rest on the total objection to a statement, when it would be difficult to replace some of its components with other probative means. [FN53]

[FN53] Cf. Case of González et al. ("Cotton Field") v. Mexico, supra note 6, thirty-sixth considering paragraph.

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103. Regarding the testimony of Mr. Maynez Grijalva, the State questioned its veracity and affirmed that, on several points, the witness offered personal opinions without any evidence to support them. The Tribunal will not take the mere opinions of the witness into consideration and will weigh each of his affirmations that are relevant for this case, against the rest of the evidence.

104. The State asked the Court to reject the testimony of Mrs. Delgadillo Pérez, because the deponent had exceeded the purpose of her testimony and given personal opinions. The Court indicates that the witness's opinions will not be taken into account. The Tribunal will assess the statements of the witness that exceed the purpose of her testimony, if they are helpful to decide this case.

105. Regarding the testimony of Mr. Hinojos, the State indicated that he is "the legal representative of Edgar Álvarez Cruz, who has been sentenced and convicted for his responsibility in the murder of a woman in Ciudad Juárez [and h]is testimony is invalid because he could be trying to act in favor of his client." In this regard, the Court reiterates that, pursuant to in 48(1) of the Rules of Procedure, witnesses are obliged to speak "the truth, the whole truth and nothing but the truth," regarding the facts and circumstances of which they are aware. In

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order to verify whether Mr. Hinojos spoke the truth, the Court will assess his testimony in conjunction with the other evidence, when examining the merits of the case.

106. As regards the testimony of Mrs. Pérez Torres, the State asked the Court to reject it, inter alia, because it was not made before notary public as required by the President. The Court confirms that, according to the case file, there is no evidence that the representatives sent the statement of said witness before a notary public; accordingly, the Court decides to reject it, because it was not made in accordance with the instructions given by the President (supra para. 10).

107. Regarding the testimony of witnesses Murguía González, Castañón Torres, Galindo López and Camberos Revilla, the representatives questioned the information they provided and contested their credibility, which will be verified by the Court when it examines the merits of the case, using sound judicial discretion and taking into account the rest of the evidence.

108. The Court observes that several documents cited by the parties in their respective briefs were not provided to the Court, including some corresponding to the State's public institutions that could be found on the Internet. Similarly, the parties included direct links to Internet pages. In the instant case, the Court observes that documents provided in this way are pertinent and the parties were able to contest them, but did not. Accordingly, these documents are accepted and placed in the case file, because legal certainty and the procedural balance of the parties were not affected.

VII. VIOLENCE AND DISCRIMINATION AGAINST WOMEN IN THIS CASE ARTICLES 4 (RIGHT TO LIFE) [FN54], 5 (RIGHT TO HUMANE TREATMENT) [FN55], 7 (RIGHT TO PERSONAL LIBERTY) [FN56], 8 (RIGHT TO A FAIR TRIAL) [FN57] 19 (RIGHTS OF THE CHILD) [FN58] and 25 (RIGHT TO JUDICIAL PROTECTION) [FN59] IN RELATION TO ARTICLES 1(1) (OBLIGATION TO RESPECT RIGHTS) [FN60] AND 2 (DOMESTIC LEGAL EFFECTS) [FN61] OF THE AMERICAN CONVENTION, AND ARTICLE 7 OF THE CONVENTION OF BELÉM DO PARÁ [FN62]

[FN54] Article 4(1) of the Convention stipulates:
Every person has the right to have his life respected. This right shall be protected by law and, in general, from the moment of conception. No one shall be arbitrarily deprived of his life.
[FN55] Article 5 of the Convention establishes:
1. Every person has the right to have his physical, mental, and moral integrity respected.
2. No one shall be subjected to torture or to cruel, inhuman, or degrading punishment or treatment. All persons deprived of their liberty shall be treated with respect for the inherent dignity of the human person. […]
[FN56] Article 7 of the Convention stipulates:
1. Every person has the right to personal liberty and security.
2. No one shall be deprived of his physical liberty except for the reasons and under the conditions established beforehand by the constitution of the State Party concerned or by a law established pursuant thereto.
3. No one shall be subject to arbitrary arrest or imprisonment. […]

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[FN57] Article 8(1) of the Convention establishes that:
Every person has the right to a hearing, with due guarantees and within a reasonable time, by a competent, independent, and impartial tribunal, previously established by law, in the substantiation of any accusation of a criminal nature made against him or for the determination of his rights and obligations of a civil, labor, fiscal, or any other nature. […]
[FN58] Article 19 of the Convention establishes:
Every minor child has the right to the measures of protection required by his condition as a minor on the part of his family, society, and the State.
[FN59] Article 25(1) of the Convention indicates that:
Everyone has the right to simple and prompt recourse, or any other effective recourse, to a competent court or tribunal for protection against acts that violate his fundamental rights recognized by the constitution or laws of the state concerned or by this Convention, even though such violation may have been committed by persons acting in the course of their official duties.
[FN60] Article 1(1) of the Convention establishes:
The States Parties to this Convention undertake to respect the rights and freedoms recognized herein and to ensure to all persons subject to their jurisdiction the free and full exercise of those rights and freedoms, without any discrimination for reasons of race, color, sex, language, religion, political or other opinion, national or social origin, economic status, birth, or any other social condition.
[FN61] Article 2 of the Convention states:
Where the exercise of any of the rights or freedoms referred to in Article 1 is not already ensured by legislative or other provisions, the States Parties undertake to adopt, in accordance with their constitutional processes and the provisions of this Convention, such legislative or other measures as may be necessary to give effect to those rights or freedoms.
[FN62] Article 7 of the Convention of Belém do Pará stipulates:
The States Parties condemn all forms of violence against women and agree to pursue, by all appropriate means and without delay, policies to prevent, punish and eradicate such violence and undertake to:
[…]
(b) apply due diligence to prevent, investigate and impose penalties for violence against women;
(c) include in their domestic legislation penal, civil, administrative and any other type of provisions that may be needed to prevent, punish and eradicate violence against women and to adopt appropriate administrative measures where necessary;
[…]
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109. The Commission asked the Court to declare that the State had failed to comply with its obligation to ensure the right to life of the victims "by adopting measures to prevent their murders, thus violating [A]rticle 4 of the American Convention, in connection to [A]rticles 1(1) and 2 [thereof]." It also asked the Court "to find that the State failed in its obligation to act diligently to prevent, investigate and punish the acts of violence suffered by [the victims] in violation of Article 7 of the Convention of Belém do Pará." Lastly, it maintained that the State had failed to comply with its obligation to conduct an effective and adequate investigation into the disappearances and subsequent deaths of Mss. González, Herrera and Ramos, in violation of Articles 8, 25 and 1(1) of the American Convention. According to the Commission, "[d]espite

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the fact that six years have passed, the State has not made any progress in the clarification of the facts or regarding who are the responsible parties."

110. The representatives concurred with the Commission and also alleged that "the State's failure to protect the human rights of the victims refers to the right to life, but also to the right to humane treatment and to personal liberty, directly related to the right to due process." They indicated that "the failure of the authorities to act or react to the reports of disappearances, not only facilitated the victims' murders, but also the deprivation of their liberty and torture, despite the known situation of risk for women."

111. Despite acknowledging "the serious nature of these murders," the State denied that it had committed "any violation" of the rights to life, humane treatment and personal liberty. According to the State, neither the Commission nor the representatives "had proved that State agents were in any way responsible for the murders." In addition, it argued that, during the second stage of the investigations into the three cases starting in 2004, "the irregularities were fully rectified, the case files were reactivated and the investigations were started up again on a scientific basis, and even with international support." According to the State, "impunity does not exist. The investigations into the cases are still open and measures are still being taken to identify those responsible."

112. This difference of opinion requires the Court to examine the context of the facts of the case and the conditions in which said facts can be attributed to the State, thus entailing its international responsibility derived from the alleged violation of Articles 4, 5 and 7 of the American Convention, in relation to Articles 1(1) and 2 thereof, and of Article 7 of the Convention of Belém do Pará. Furthermore, despite the State's acquiescence, it is still necessary to determine the nature and severity of the violations that occurred with regard to Articles 8(1) and 25(1) of the Convention, in relation to Articles 1(1) and 2 of this treaty, and Article 7 of the Convention of Belém do Pará. To this end, the Court will now make the pertinent factual and legal findings, examining the State's obligations of respect, guarantee and non-discrimination.

1. Context

1.1. Ciudad Juárez

113. Ciudad Juárez is located in the north of the state of Chihuahua, on the border with El Paso, Texas. It has a population of more than 1.2 million inhabitants, [FN63] and is an industrial city – where the "maquila industry" (manufacturing and/or assembly plants, hereinafter referred to as "maquila," "maquiladora" or "maquilas") has flourished – and a place of transit for Mexican and foreign migrants. [FN64] The State, as well as various national and international reports, mention a series of factors that converge in Ciudad Juárez, such as social inequalities [FN65] and the proximity of the international border, [FN66] that have contributed to the development of different types of organized crime, such as drug-trafficking, [FN67] people trafficking, [FN68] arms smuggling [FN69] and money-laundering, [FN70] which have increased the levels of insecurity and violence. [FN71]

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[FN63] Cf. Radiografía Socioeconómica del Municipio de Juárez prepared by the Municipal Research and Planning Institute, 2002 (case file of attachments to the answer to the application, volume XXV, attachment 2, folios 8488 to 8490, 8493, 8495 and 8510).
[FN64] Cf. Radiografía Socioeconómica del Municipio de Juárez 2002, supra note 63, folio 8492; IACHR, The Situation of the Rights of Women in Ciudad Juárez, Mexico: The Right to be Free from Violence and Discrimination, OEA/Ser.L/V//II.117, Doc. 44, March 7, 2003 (case file of attachments to the application, volume VII, attachment 1, folio 1742); United Nations, Report on Mexico produced by the Committee on the Elimination of Discrimination against Women under Article 8 of the Optional Protocol of the Convention, and reply from the Government of Mexico, CEDAW/C/2005/OP.8/MEXICO, 27 January 2005 (case file of attachments to the application, volume VII, attachment 3b, folio 1921); United Nations, Report of the Special Rapporteur on violence against women, its causes and consequences, Yakin Ertürk, Integration of the human rights of women and a gender perspective: violence against women, Mission to Mexico, E/CN.4/2006/61/Add.4, January 13, 2006 (case file of attachments to the application, volume VII, attachment 3c, folio 2011), and Amnesty International, Mexico: Intolerable killings: 10 years of Abductions and Murders or Women in Ciudad Juárez and Chihuahua, AMR 41/027/2003 (case file of attachments to the application, volume VII, attachment 6, folio 2267).
[FN65] Cf. Report on Mexico produced by CEDAW, supra note 64, folio 1921; Report of the Special Rapporteur on violence against women, supra note 64, folio 2011; Amnesty International, Intolerable killings, supra note 64, folio 2268, and Comisión Mexicana de Defensa y Promoción de los Derechos Humanos A.C., Compendio de recomendaciones sobre el feminicidio en Ciudad Juárez, Chihuahua, 2007 (case file of attachments to the pleadings and motions brief, volume XX, attachment 11(1), folio 6564).
[FN66] Cf. CNDH, Informe Especial de la Comisión Nacional de los Derechos Humanos sobre los Casos de Homicidios y Desapariciones de Mujeres en el Municipio de Juárez, Chihuahua, 2003 [Special Report of the National Human Rights Commission on the Cases of Homicides and Disappearances of Women in the Municipality of Juarez, Chihuahua, 2003] (case file of attachments to the application, volume VII, attachment 5, folio 2168); Report of the Special Rapporteur on violence against women, supra note 64, folio 2011, and Amnesty International, Intolerable killings, supra note 64, folio 2267.
[FN67] Cf. IACHR, The Situation of the Rights of Women in Ciudad Juárez, supra note 64, folio 1742; Report on Mexico produced by CEDAW, supra note 64, folios 1921 and 1922; CNDH, Informe Especial, supra note 66, folio 2168, and Comisión para Prevenir y Erradicar la Violencia contra las Mujeres en Ciudad Juárez [Commission for the Prevention and Eradication of Violence against Women in Ciudad Juarez], Primer Informe de Gestión, November 2003-April 2004 (case file of attachments to the answer to the application, volume XXV, attachment 7, folio 8666).
[FN68] Cf. Report on Mexico produced by CEDAW, supra note 64, folio 1922, and Report of the Special Rapporteur on violence against women, supra note 64, folio 2011.
[FN69] Cf. Comisión para Prevenir y Erradicar la Violencia contra las Mujeres en Ciudad Juárez, Primer Informe de Gestión, supra note 67, folio 8666, and Report on Mexico produced by CEDAW, supra note 64, folio 195.
[FN70] Cf. Report on Mexico produced by CEDAW, supra note 64, folio 1922, and Report of the Special Rapporteur on violence against women, supra note 64, folio 2011.
[FN71] Cf. IACHR, The Situation of the Rights of Women in Ciudad Juárez, supra note 64, folio 1742; Report on Mexico produced by CEDAW, supra note 64, folios 1921 to 1922; CNDH,

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Informe Especial, supra note 66, folio 2168, and Comisión Mexicana de Defensa y Promoción de los Derechos Humanos A.C., Compendio de recomendaciones, supra note 65, folio 6564.

1.2. Phenomenon of the murder of women, and numbers

114. The Commission and the representatives alleged that, since 1993, the number of disappearances and murders of women and girls in Ciudad Juárez has increased significantly. According to the Commission, "Ciudad Juárez has become a focus of attention of both the national and the international communities because of the particularly critical situation of violence against women which has prevailed since 1993, and the deficient State response to these crimes."

115. The State acknowledged "the problem it faces owing to the situation of violence against women in Ciudad Juárez, above all, the murders that have been recorded since the beginning of the 1990s in the last century."

116. Various national and international human rights monitoring mechanisms have been following the situation in Ciudad Juárez and have called the international community's attention to it. In 1998, the Mexican National Human Rights Commission (hereinafter the "CNDH" for its name in Spanish) examined 24 cases of murders of women and concluded that the human rights of the victims and their next of kin had been violated during the investigations. [FN72] Subsequently, the following mechanisms, inter alia, have made observations in this regard: the United Nations Special Rapporteur on extrajudicial, summary or arbitrary executions (hereinafter the "U.N. Special Rapporteur on extrajudicial executions") in 1999; [FN73] the United Nations Special Rapporteur on the independence of judges and lawyers (hereinafter the "U.N. Special Rapporteur on judicial independence") in 2002; [FN74] the Inter-American Commission and its Special Rapporteur on the Rights of Women (hereinafter the "IACHR Rapporteur") in 2003; [FN75] the Commission of International Experts of the United Nations Office on Drugs and Crime in 2003; [FN76] the United Nations Committee on the Elimination of Discrimination against Women (hereinafter "CEDAW") in 2005, [FN77] and the United Nations Special Rapporteur on violence against women (hereinafter the "U.N. Special Rapporteur on violence against women") in 2005. [FN78] It should be noted that the European Parliament issued a resolution in this regard in 2007. [FN79] In addition, reports have been prepared by national and international non-governmental human rights organizations, such as Amnesty International, [FN80] the Observatorio Ciudadano para Monitorear la Impartición de Justicia en los casos de Feminicidio en Ciudad Juárez y Chihuahua [Citizens' Observatory to Monitor the Delivery of Justice in the cases of Femicides in Ciudad Juárez and Chihuahua] [FN81] (hereinafter the "Observatorio Ciudadano") and the Comisión Mexicana de Defensa y Promoción de los Derechos Humanos A.C. [Mexican Commission for the Defense and Promotion of Human Rights A.C.]. [FN82]

[FN72] Cf. CNDH, Recomendación 44/1998 issued on May 15, 1998 (case file of attachments to the application, volume VII, attachment 4, folios 2113 to 2164).

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[FN73] Cf. United Nations, Report of the mission of the Special Rapporteur on extrajudicial, summary or arbitrary executions, E/CN.4/2000/3, Add.3, November 25,1999 (case file of attachments to the application, volume VII, attachment 3d, folios 2025 to 2058).
[FN74] Cf. United Nations, Report of the mission of the Special Rapporteur on the independence of judges and lawyers, E/CN.4/2002/72/Add.1, January 24, 2002 (case file of attachments to the application, volume VII, attachment 3e, folios 2060 to 2111).
[FN75] Cf. IACHR, The Situation of the Rights of Women in Ciudad Juárez, supra note 64, folios 1732 to 1779.
[FN76] Cf. United Nations, Report of the Committee of International Experts of the United Nations Office on Drugs and Crime, on the mission to Ciudad Juárez, Chihuahua, Mexico, November 2003 (case file of attachments to the application, volume VII, attachment 3a, folios 1861 to 1913).
[FN77] Cf. Report on Mexico produced by CEDAW, supra note 64, folio 1921.
[FN78] Cf. Report of the Special Rapporteur on violence against women, supra note 64, folios 2011 to 2021.
[FN79] Cf. European Parliament resolution on the murder of women (femicide) in Mexico and in Central America and the role of the European Union in fighting the phenomenon, adopted on October 11, 2007, 2007/2025/(INI) (case file of attachments to the pleadings and motions brief, volume XIII, attachment 3.1, folios 4718 to 4727).
[FN80] Cf. Amnesty International, Intolerable killings, supra note 64, folios 2256 to 2305.
[FN81] Cf. Observatorio Ciudadano para Monitorear la Impartición de Justicia en los casos de Feminicidio en Ciudad Juárez y Chihuahua, Informe Final. Evaluación y Monitoreo sobre el trabajo de la Fiscalía Especial para la Atención de Delitos Relacionados con los Homicidios de Mujeres en el Municipio de Juárez, Chihuahua, de la Procuraduría General de la República, November 2006 (case file of attachments to the pleadings and motions brief, volume XX, attachment 11.2, folios 6629 to 6759).
[FN82] Cf. Comisión Mexicana de Defensa y Promoción de los Derechos Humanos A.C., Compendio de recomendaciones, supra note 65, folios 6561 to 6626, and Comisión Mexicana de Defensa y Promoción de los Derechos Humanos, Feminicidio en Chihuahua. Asignaturas Pendientes, 2007 (case file of attachments to the pleadings and motions brief, volume XX, attachment 11.3, folios 6761 to 6864).
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117. The report of the IACHR Rapporteur underscores that, although Ciudad Juárez has been characterized by a significant increase in crimes against women and men [FN83] (supra para. 108), several aspects of the increase are "anomalous" with regard to women because: (i) murders of women increased significantly in 1993; [FN84] (ii) the coefficients for murders of women doubled compared to those for men, [FN85] and (iii) the homicide rate for women in Ciudad Juárez is disproportionately higher than that for other border cities with similar characteristics. [FN86] For its part, the State provided evidence that, in 2006, Ciudad Juárez was ranked fourth among all Mexican cities for the murder of women. [FN87]

[FN83] According to the Mexican Commission for the Defense and Promotion of Human Rights, although the phenomenon of violence in Ciudad Juárez affects both men and women, "it is important to note that, in the case of men, it is well known that the causes of the killings relate to

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drug-trafficking, vendettas and street fighting, among other factors" and "[i]n the case of the killings of women […] there are no apparent causes" (Comisión Mexicana de Defensa y Promoción de los Derechos Humanos, Compendio de recomendaciones, supra note 65, folio 6565). Similarly, the Ciudad Juárez Commission indicated that, even though the context of violence in Ciudad Juárez affected men, women and girls, "an underlying pattern of gender violence can be observed, although more local studies and statistics on the issue are needed" (Comisión para Prevenir y Erradicar la Violencia contra las Mujeres en Ciudad Juárez, Primer Informe de Gestión, supra note 67, folio 8668).
[FN84] Cf. IACHR, The Situation of the Rights of Women in Ciudad Juárez, supra note 64, folios 1744 and 1761.
[FN85] The report of the IACHR Rapporteur explains that, according to a presentation made on March 17, 2000, by Cheryl Howard, Georgina Martínez and Zulma Y. Méndez entitled "Women, Violence and Politics," an analysis based on the death certificates and other data resulted in the conclusion that, over the period 1990-1993, 249 men were murdered while, between 1994 and 1997, 942 men were murdered, which signifies a 300% increase. According to the same study, between 1990 and 1993, 20 women were murdered and between 1994 and 1997, the number rose to 143, which signifies an increase of 600% (Cf. IACHR, The Situation of the Rights of Women in Ciudad Juárez, supra note 64, folio 1761).
[FN86] Cf. IACHR, The Situation of the Rights of Women in Ciudad Juárez, supra note 64, folios 1743 and 1761; Report of the Special Rapporteur on violence against women, supra note 64, folio 2007, and the Comisión Especial para Conocer y Dar Seguimiento a las Investigaciones Relacionadas con los Feminicidios en la República Mexicana y a la Procuración de Justicia Vinculada [Special Commission to Examine and Follow-up on the Investigations into the Femicides in the Mexican Republic and the Related Delivery of Justice], of the Chamber of Representatives of the Congress of the Union, Violencia feminicida en 10 entidades de la Republic Mexicana, published in April 2006 (case file of attachments to the pleadings and motions brief, volume XXI, attachment 11.4, folio 6930).
[FN87] Cf. Office of the Special Prosecutor for the Investigation of the Murders of Women in Ciudad Juárez, Chihuahua, Informe Final, issued in January 2006 (case file of attachments to the answer to the application, volume XL, attachment 59, folio 14607). It should be noted that there is a difference in the figures for the number of women murdered for each 100,000 inhabitants mentioned by the Commission and by the Special Prosecutor's Office in their respective reports. The figure provided by the Commission is 7.9 (the report does not indicate the period used to calculate this figure) and by the Special Prosecutor's Office it is 2.4, for the period from 1991 to 2004 (Cf. IACHR, The Situation of the Rights of Women in Ciudad Juárez, supra note 64, folio 1761 and Office of the Special Prosecutor for the Investigation of the Murders of Women in Ciudad Juárez, Informe Final, folio 14607).
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118. From the information provided by the parties, the Court observes that no clear data exists on the exact number of women who have been murdered in Ciudad Juárez since 1993. [FN88] Reports quote figures ranging from 260 to 370 women from 1993 to 2003. [FN89] Meanwhile, the State forwarded evidence that 264 murders of women had been recorded up until 2001, and 328 up to 2003. [FN90] According to this same evidence, by 2005, the number of murders of women had increased to 379. [FN91] In this regard, the Observatorio Ciudadano indicated that "this number can hardly be considered reliable, owing to the previously documented

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inconsistency in the case files, investigations and auditing procedures undertaken by the Office of the Attorney General of the Republic [Procuraduría General de la República (hereinafter also referred to as the "PGR" for its name in Spanish)], compared also to the information provided by the Colegio de la Frontera Norte and the Commission to Prevent and Eliminate Violence against Women of the Secretariat of Government [Ministry of the Interior], which refers to 442 murdered women." [FN92]

[FN88] Reports provided to the Court as evidence, as well as evidence forwarded by the State, reveal that there is no consensus regarding the statistics for the murders of women in Ciudad Juárez. In this regard, CEDAW indicated: "[t]here are no clear and convincing records of the number of women who have been murdered and abducted. There is no agreement between the figures put forward by the various government agencies and those cited by non-governmental organizations." (Report on Mexico produced by CEDAW, supra note 64, folio 1934). Furthermore, according to the National Human Rights Commission, there are "disparities and contradictions in the data, numbers and information provided by the competent state and federal authorities to this National Commission, as well as to various international agencies and non-governmental human rights defenders in relation to the women victims of murder or disappearance in the municipality of Juárez, Chihuahua; of itself, this denotes negligence in the performance of the administration of justice" (CNDH, Informe Especial, supra note 66, folio 2247). The Special Prosecutor's Office emphasized that "[o]ne of the most difficult aspects to determine, and the one that has generated the greatest controversy concerning events in the municipality of Juárez […], relates to the number of cases of murder and disappearances that have occurred there over the last 13 years with similar characteristics or patterns of conduct. There have been innumerable speculations in this regard, and numbers and facts that bear no relationship to the reality have been used haphazardly." According to the Special Prosecutor's Office, "the figures and the evidence reveal that, in recent years, a perception has been generated that bears no relationship to the reality, creating a vicious circle of facts, impunity and speculation that has affected the population of Ciudad Juárez in particular" (Office of the Special Prosecutor for the Investigation of Crimes related to the _Murders of Women in Ciudad Juárez, Informe Final, supra note 87, folios 14540 and 14607). The Ciudad Juárez Commission indicated that "it is not certain how many murders and disappearances have occurred in Ciudad Juárez; there is no credible figure for the family groups and government institutions." (Comisión para Prevenir y Erradicar la Violencia contra las Mujeres en Ciudad Juárez, Primer Informe de Gestión, supra note 67, folio 8677).
[FN89] Cf. IACHR, The Situation of the Rights of Women in Ciudad Juárez, supra note 64, folio 1743; Report on Mexico produced by CEDAW, supra note 64, folio 1921; CNDH, Informe Especial, supra note 66, folios 2166 and 2167, and Amnesty International, Intolerable killings, supra note 64, folios 2256 and 2262.
[FN90] Cf. Office of the Special Prosecutor for the Investigation of Crimes related to the Murders of Women in Ciudad Juárez, Informe Final, supra note 87, folio 14646.
[FN91] Cf. Office of the Special Prosecutor for the Investigation of Crimes related to the Murders of Women in Ciudad Juárez, Informe Final, supra note 87, folio 14691 and Comisión Mexicana de Defensa y Promoción de los Derechos Humanos, Feminicidio en Chihuahua, supra note 82, folios 6761 to 6864.
[FN92] Final report of the Observatorio Ciudadano, supra note 81, folio 6647.

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119. Regarding the disappearances of women, according to the 2003 reports of CEDAW and Amnesty International, the national NGOs mention around 400 disappearances [FN93] between 1993 and 2003 while, according to the report of the IACHR Rapporteur, in 2002, the whereabouts of 257 women who had been declared missing, between 1993 and 2002, were unknown. [FN94] Furthermore, the Office of the Special Prosecutor for Crimes related to the Murders of Women in the Municipality of Juárez (hereinafter the “Special Prosecutor’s Office”) established that, from 1993 to 2005, 4,456 women were reported to have disappeared and, at December 31, 2005, 34 women were yet to be found. [FN95]

[FN93] Cf. Report on Mexico produced by CEDAW, supra note 64, folio 1928 and Amnesty International, Intolerable killings, supra note 64, folio 2253.
[FN94] Cf. IACHR, The Situation of the Rights of Women in Ciudad Juárez, supra note 64, folio 1746; Report on Mexico produced by CEDAW, supra note 64, folio 1928, and Amnesty International, Intolerable killings, supra note 64, folio 2274.
[FN95] Cf. Office of the Special Prosecutor for the Investigation of Crimes related to the Murders of Women in Ciudad Juárez, Informe Final, supra note 87, folios 14543, 14661, 14584 and 14587, and CNDH, Segundo Informe de Evaluación Integral, supra note 72, folio 4667.

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120. The Observatorio Ciudadano questioned this figure and indicated that there was “strong evidence that […] the human remains corresponded to more than the 34 women believed by the [Special Prosecutor’s Office], because what was presumed to be the skeletal remains of a single individual, has turned out to be the remains of more than 60.” It added that the information on which the investigation of the Special Prosecutor’s Office is based “is totally inaccessible to private individuals; consequently, it is virtually impossible to compare the sources and the consistency of the data used by the [Special Prosecutor’s Office].” [FN96] The CNDH made a similar statement in 2003, although not in relation to the numbers provided by the Special Prosecutor’s Office, and indicated that it had noted “the lack of diligence with which measures have been taken by the [Office of the Attorney General of the state of Chihuahua], in the cases of women who have been reported missing” and that the reports provided by the authorities to the CNDH differed from those provided to international agencies. The CNDH also indicated that, when it officially requested information on the current status of the investigations, “it had been told that “it was impossible to know what had happened in 2,415 cases, because ‘the case files were not physically available’.” [FN97]

[FN96] Final report of the Observatorio Ciudadano, supra note 81, folios 6650 and 6659.
[FN97] CNDH, Informe Especial, supra note 66, folio 2238.

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121. The Court takes note that there are no reliable assumptions about the number of murders and disappearances of women in Ciudad Juárez, and observes that, whatever the number, it is alarming. Over and above the numbers which, although significant, are not sufficient to

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understand the seriousness of the problem of violence experienced by some women in Ciudad Juárez, the arguments of the parties, together with the evidence they have provided, indicate a complex phenomenon, accepted by the State (supra para. 115), of violence against women since 1993, characterized by specific factors that this Court considers it important to highlight.

1.3. Victims

122. In the first place, the Commission and the representatives alleged that the victims were young women aged 15 to 25 years, students or workers in the maquila industries or in stores or other local businesses, some of whom had only lived in Ciudad Juárez for a relatively short time. The State did not make any comment in this regard.

123. The plaintiffs' allegations were based on different reports prepared by national and international agencies establishing that the murder victims appeared to be, above all, young women, [FN98] including girls, [FN99] women workers – especially those working in the maquilas [FN100] – who are underprivileged, [FN101] students [FN102] or migrants. [FN103]

[FN98] Cf. IACHR, The Situation of the Rights of Women in Ciudad Juárez, supra note 64, folio 1744; Report on Mexico produced by CEDAW, supra note 64, folios 1924 and 1926; Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, supra note 73, folio 2052; Amnesty International, Intolerable killings, supra note 64, folios 2256 and 2271, and Office of the Special Prosecutor for the Investigation of Crimes related to the Murders of Women in Ciudad Juárez, Informe Final, supra note 87, folio 14605.
[FN99] Cf. IACHR, The Situation of the Rights of Women in Ciudad Juárez, supra note 64, folio 1764; Amnesty International, Intolerable killings, supra note 64, folios 2256 and 2271, and testimony given before notary public by the expert witness Jusidman Rapoport on April 21, 2009 (merits case file, volume XIII, folio 3806).
[FN100] Cf. IACHR, The Situation of the Rights of Women in Ciudad Juárez, supra note 64, folio 1744; Report on Mexico produced by CEDAW, supra note 64, folios 1924 and 1926; Report of the Special Rapporteur on violence against women, supra note 64, folio 2012, and Amnesty International, Intolerable killings, supra note 64, folios 2257 and 2271.
[FN101] Cf. Report on Mexico produced by CEDAW, supra note 64, folios 1924 and 1926; Report of the Special Rapporteur on violence against women, supra note 64, folio 2012; Amnesty International, Intolerable killings, supra note 64, folio 2257; Office of the Special Prosecutor for the Investigation of Crimes related to the Murders of Women in Ciudad Juárez, Informe Final, supra note 87, folio 14605; statement made before notary public by expert witness Monárrez Fragoso on November 20, 2008 (merits case file, volume XIII, folio 3911), and Comisión para Prevenir y Erradicar la Violencia contra las Mujeres en Ciudad Juárez, Tercer informe de gestión, May 2005-September 2006, citing the Second Progress Report entitled "El feminicidio: formas de ejercer la violencia contra las mujeres" (case file of attachments to the answer to the application, volume XXVII, attachment 12, folio 9016).
[FN102] Cf. IACHR, The Situation of the Rights of Women in Ciudad Juárez, supra note 64, folio 1744; Report on Mexico produced by CEDAW, supra note 64, folios 1924 and 1926; Report of the Special Rapporteur on violence against women, supra note 64, folio 2012, and Amnesty International, Intolerable killings, supra note 64, folios 2257 and 2271.

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[FN103] Cf. IACHR, The Situation of the Rights of Women in Ciudad Juárez, supra note 64, folio 1744, and Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, supra note 73, folio 2053.

1.4. Method

124. Second, the Commission and the representatives alleged that there were signs of sexual violence in many of the murders. According to a report of the Special Prosecutor's Office, since 1993, some of the murders and disappearances "have revealed similar characteristics and/or patterns of conduct." [FN104]

[FN104] Cf. Office of the Special Prosecutor for the Investigation of Crimes related to the Murders of Women in Ciudad Juárez, Informe Final, supra note 87, folio 14525.
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125. Diverse reports establish the following common factors in several of the murders: the women were abducted and kept in captivity, [FN105] their next of kin reported their disappearance [FN106] and, after days or months, their bodies were found on empty lots [FN107] with signs of violence, including rape and other types of sexual abuse, torture and mutilation. [FN108]

[FN105] Cf. Report on Mexico produced by CEDAW, supra note 64, folios 1924 and 1927, and Amnesty International, Intolerable killings, supra note 64, folio 2271.
[FN106] Cf. IACHR, The Situation of the Rights of Women in Ciudad Juárez, supra 64, folio 1744.
[FN107] Cf. IACHR, The Situation of the Rights of Women in Ciudad Juárez, supra note 64, folio 1744; Report on Mexico produced by CEDAW, supra note 64, folio 1927, and final report of the Observatorio Ciudadano, supra note 81, folio 6640.
[FN108] Cf. IACHR, The Situation of the Rights of Women in Ciudad Juárez, supra note 64, folio 1744; Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, supra note 73, folio 2052; Amnesty International, Intolerable killings, supra note 64, folio 2271; CNDH, Recomendación 44/1998, supra note 72, folio 2154, and Report on Mexico produced by CEDAW, supra note 64, folio 1927.
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126. Regarding the sexual characteristics of the murders, the State alleged that, according to the figures for 2004, around 26% of the murders were the result of violent sexual acts.

127. Although the Special Prosecutor's Office concluded that most of the murders of women in Ciudad Juárez were independent of each other and, consequently, had been committed under different circumstances, of time, manner, and occasion, [FN109] it was only in 2005 that it "was able to determine that the number of cases in which there was a pattern of conduct identified as the phenomenon known as 'Muertas de Juárez' [the dead women of Juarez], was about 30% of

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the 379 identified murders," or in other words, around 113 women, Furthermore, the Commission to Prevent and Eliminate Violence against Women in Ciudad Juárez (hereinafter the "Ciudad Juárez Commission") indicated that, even though there continued to be discrepancies as regards absolute figures, different reports agreed that one-third of all the murders of women were those classified as sex-related and/or serial; the latter "are those with a repeated pattern in which, generally, the victim does not know her attacker and is deprived of her liberty and subjected to multiple abuse and suffering until she dies." [FN110]CEDAW and Amnesty International reports concur that around one-third of the murders had a component of sexual violence or similar characteristics. [FN111]

[FN109] Cf. Office of the Special Prosecutor for the Investigation of Crimes related to the Murders of Women in Ciudad Juárez, Informe Final, supra note 87, folio 14608. In this regard, it is worth noting that the Ciudad Juárez Commission indicated that, "[a]lthough it is true that it has been difficult to prove that the murders of women in Ciudad Juárez are related to serial killers, the [Special Prosecutor's Office] should have analyzed the criminal phenomenon constituted by paradigmatic cases; those in which there may be evidence of what the [Special Prosecutor's Office] calls "murders of women with similar characteristics and/or patterns of conduct." Similarly, it complained that the Special Prosecutor's Office "has not yet approached its analysis from a gender perspective, despite international recommendations" (Comisión para Prevenir y Erradicar la Violencia contra las Mujeres en Ciudad Juárez, Tercer informe de gestión, supra note 101, folio 9073).

[FN110] Comisión para Prevenir y Erradicar la Violencia contra las Mujeres en Ciudad Juárez, Tercer informe de gestión, supra note 101, folios 8996 and 8997.

[FN111] According to the 2005 CEDAW report, the Chihuahua Women's Institute referred to 90 cases, the Special Prosecutor's Office and the Delegate of the Office of the Attorney General of the Republic in Ciudad Juárez mentioned 93 cases and the NGOs counted 98 (Cf. Report on Mexico produced by CEDAW, supra note 64, folio 1924).

1.5. Gender-based violence

128. According to the representatives, the issue of gender is the common denominator of the violence in Ciudad Juárez, which "occurs as a culmination of a situation characterized by the reiterated and systematic violation of human rights." They alleged that "cruel acts of violence are perpetrated against girls and women merely because of their gender and, only in some cases, are they murdered as a culmination of this public and private violence."

129. The State indicated that the murders "have different causes, with different authors, in very distinct circumstances and with diverse criminal patterns, but are influenced by a culture of gender-based discrimination." According to the State, one of the structural factors that have led to situations of violence against women in Ciudad Juárez is the change in family roles, as a result of women working. The State explained that, in Ciudad Juárez, the maquiladora industry started up in 1965, and increased in 1993 with the North American Free Trade Agreement. It indicated that, by giving preference to hiring women, the maquila industries caused changes in their working life that also had an impact on their family life because "traditional roles began to

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change, with women becoming the household provider." This, according to the State, led to conflicts within the family because women began to present an image of being more competitive and financially independent. [FN112] In addition, the State cited the CEDAW report to indicate that "[t]his social change in women's roles has not been accompanied by a change in traditionally patriarchal attitudes and mentalities, and thus the stereotyped view of men's and women's social roles has been perpetuated."

[FN112] These allegations concur with the conclusions of the first progress report of the Ciudad Juárez Commission, which indicated that, during the 1970s and 1980s, the maquila industries were characterized by employing women almost exclusively, in a context of male unemployment; this "produced a cultural shock within the families" and when "the men could not find work, it was the women who supported the household" (Comisión para Prevenir y Erradicar la Violencia contra las Mujeres en Ciudad Juárez, Primer Informe de Gestión, supra note 67, folio 8663. See also, Report on Mexico produced by CEDAW, supra note 64, folio 1922; statement made before notary public by expert witness Pineda Jaimes on April 15, 2009, merits case file, volume VIII, folio 2825, and testimony of expert witness Jusidman Rapoport, supra note 99, folio 3778).

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130. Other factors mentioned by the State as generators of violence and marginalization, are the absence of basic public services in the underprivileged areas; and drug-trafficking, arms trafficking, crime, money-laundering and people trafficking, which take place in Ciudad Juárez because it is a border city; the consumption of drugs, the high rate of school desertion, and the presence of "numerous sexual predators" and "military officials […] who have participated in armed conflicts," in the neighboring city of El Paso.

131. According to the evidence forwarded by the State, the motive for 31.4% of the murders of women that took place between 1993 and 2005 was social violence (which includes revenge, street fights, imprudence, gang activities and robbery), 28% were due to domestic violence, 20.6% were based on sexual motives and in 20.1% of the cases the causes were unknown. [FN113] It is worth noting that there are inconsistencies in the figures provided by the State. For example, in its response to the 2003 CEDAW report, the State indicated that 66% of the murders were the result of domestic and common violence, the motives for 8% were unknown, and the remaining 26% were acts of sexual violence. [FN114]

[FN113] Cf. Office of the Special Prosecutor for the Investigation of Crimes related to the Murders of Women in Ciudad Juárez, Informe Final, supra note 87, folio 14549.

[FN114] In its reply to the CEDAW Report, the State explained that the context of violence against women that many of the murders were part of, together with public opinion's strongly held views about the possible causes, "makes it extremely difficult to classify them on the basis of motive"; however, it was possible to classify them "in light of the data available concerning the perpetrators, witnesses and circumstances under which the murders took place" (Report on Mexico produced by CEDAW, supra note 64, folio 1957).

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132. The Court notes that, despite the State's denial that there is any kind of pattern in the motives for the murders of women in Ciudad Juárez, it told CEDAW that "they are all influenced by a culture of discrimination against women based on the erroneous idea that women are inferior." [FN115] Mexico's observations in its reply to CEDAW with regard to the specific actions taken to improve the situation of subordination of women in Mexico and in Ciudad Juárez should also be noted:

[I]t must be acknowledged that a culture deeply rooted in stereotypes, based on the underlying assumption that women are inferior, cannot be changed overnight. Changing cultural patterns is a difficult task for any government, even more so when the emerging problems of modern society — alcoholism, drug addiction and trafficking, gang crime, sex tourism, etc. — serve to exacerbate the discrimination suffered by various sectors of society, in particular those that are already disadvantaged, such as women, children and indigenous peoples. [FN116]

[FN115] Report on Mexico produced by CEDAW, supra note 64, folio 1957.
[FN116] Report on Mexico produced by CEDAW, supra note 64, folio 1960.

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133. Various reports agree that, although there are different motives for the murders in Ciudad Juárez and different perpetrators, many cases relate to gender violence that occurs in a context of systematic discrimination against women. [FN117] According to Amnesty International, the characteristics shared by many of the cases reveal that the victim's gender appears to have been a significant factor in the crime, "influencing both the motive and the context of the crime, and also the type of violence to which the women were subjected." [FN118] The report of the IACHR Rapporteur indicates that the violence against women in Ciudad Juárez "has its roots in concepts of the inferiority and subordination of women." [FN119] In turn, CEDAW stressed that gender-based violence, including the murders, kidnappings, disappearances and the domestic violence "are not isolated, sporadic or episodic cases of violence; rather they represent a structural situation and a social and cultural phenomenon deeply rooted in customs and mindsets" and that these situations of violence are founded "in a culture of violence and discrimination." [FN120]

[FN117] Cf. IACHR, The Situation of the Rights of Women in Ciudad Juárez, supra note 64, folio 1735; Report on Mexico produced by CEDAW, supra note 64, folio 1922; Report of the Special Rapporteur on violence against women, supra note 64, folios 2001 to 2002, and Amnesty International, Intolerable killings, supra note 64, folios 2259 and 2269.
[FN118] Amnesty International, Intolerable killings, supra note 64, folio 2269.
[FN119] IACHR, The Situation of the Rights of Women in Ciudad Juárez, supra note 64, folio 1766 (citing the letter of the Secretary of Government of Chihuahua to the Special Rapporteur of February 11, 2002).
[FN120] Cf. Report on Mexico produced by CEDAW, supra note 64, folios 1937 and 1949.

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134. The United Nations Rapporteur on violence against women explained that the violence against women in Mexico can only be understood in the context of “socially entrenched gender inequality.” The Rapporteur referred to “forces of change [that] challenge the very basis of the machismo” including the incorporation of women into the workforce, which gives them economic independence and offers new opportunities for education and training.

While ultimately empowering women to overcome structural discrimination, these factors may exacerbate violence and hardship in the short-run. The inability of men to fulfill traditional machista roles as providers causes family abandonment, unstable relationships or alcoholism, which in turn may increase the risk of violence. Even cases of rape and murder, may be understood as desperate attempts to uphold discriminatory norms that are outpaced by changing socio-economic conditions and the advance of human rights. [FN121]

[FN121] Report of the Special Rapporteur on violence against women, supra note 64, folios 2001 and 2002.

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135. The Ciudad Juárez Commission pointed out that the emphasis placed by the Special Prosecutor’s Office on domestic violence and on the significant changes in the social structure as reasons for sex crimes, did not take into account “the elements of the violence that are related to gender-based discrimination that specifically affects women,” and this “merges gender-based violence with social violence, without examining how it specifically affects women.” [FN122]

[FN122] Comisión para Prevenir y Erradicar la Violencia contra las Mujeres en Ciudad Juárez, Primer Informe de Gestión, supra note 67, folio 9074.

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136. The Commission’s report stressed the sexual characteristics of the murders and indicated that “[w]hile the extent of these aspects of the problem is unclear, evidence in certain cases suggests links to prostitution or trafficking for sexual exploitation,” and that “both can involve situations of coercion and abuse of women working in or forced to participate in the sex trade.” [FN123]

[FN123] IACHR, The Situation of the Rights of Women in Ciudad Juárez, supra note 64, folios 1748 and 1750 (citing the letter of the Secretary of Government of Chihuahua to the Special Rapporteur of February 11, 2002).

1.6. Regarding the alleged femicide

137. The Commission did not classify the facts that occurred in Ciudad Juárez as femicide.

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138. The representatives indicated that "[t]he murders and disappearances of girls and women in Ciudad Juárez are the most evil expression of misogynous violence"; hence this type of violence has been considered femicide. They explained that femicide consists in "an extreme form of violence against women; the murder of girls and women merely because of their gender in a society that subordinates them," which involves "a combination of factors, including cultural, economic and political elements." In consequence, they argued that "to determine whether the murder of a woman is a femicide, it is necessary to know the author, the method used and the context." They stated that, even in cases in which all the information on crimes of this type is not available, indicators exist such as the mutilation of certain parts of the body, including the absence of breasts or genitalia.

139. At the public hearing, the State used the term femicide when referring to the "phenomenon […] that prevails in Juárez." Nevertheless, in its observations on the expert opinions presented by the representatives, the State objected to the fact that they attempted "to include the term femicide as the definition of a type of crime, when this does not exist in domestic law or in the binding instruments of the Inter-American human rights system."

140. In Mexico, Article 21 of the General Law on the Access of Women to a Life Free of Violence, in force since 2007, defines femicide violence as "the extreme form of gender violence against women, resulting from the violation of their human rights in the public and private sphere, comprising a series of misogynous conducts that can lead to the impunity of the State and society and may culminate in the homicide or other forms of violent death of women." [FN124] Some Government agencies have also provided definitions of the term "femicide" in their reports. [FN125]

[FN124] Article 21 of the General Law on the Access of Women to a Life Free of Violence, published in the Federation's Official Gazette on February 1, 2007 (case file of attachments to the answer to the application, volume XLIII, attachment 109, folio 16126).
[FN125] Cf. Comisión para Prevenir y Erradicar la Violencia contra las Mujeres en Ciudad Juárez, Primer Informe de Gestión, supra note 67, folio 8661 and the Commission of the Chamber of Representatives, Violencia Feminicida en 10 entidades de la Republic Mexicana, supra note 86, folio 6885.

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141. Expert witnesses Monárrez Fragoso, [FN126] Pineda Jaimes, [FN127] Lagarde y de los Rios [FN128] and Jusidman Rapoport [FN129] classified what happened in Ciudad Juárez as femicide.

[FN126] Cf. testimony of expert witness Monárrez Fragoso, supra note 101, folio 3906.
[FN127] Cf. testimony of expert witness Pineda Jaimes, supra note 112, folio 2813.
[FN128] Cf. statement made before notary public by expert witness Lagarde y de los Ríos on April 20, 2009 (merits case file, volume XI, folio 3386).
[FN129] Cf. testimony of expert witness Jusidman Rapoport, supra note 99, folio 3806.

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142. In addition, the report of the Special Commission to Examine and Monitor the Investigations into Femicides in the Mexican Republic of the Chamber of Representatives (hereinafter the "Commission of the Chamber of Representatives") and the report of the Ciudad Juárez Commission, refer to the "femicides" that supposedly occur in Ciudad Juárez. [FN130] So do the Observatorio Ciudadano, [FN131] the NGOs Centro para el Desarrollo Integral de la Mujer and AC/Red Ciudadana de NO Violencia and Dignidad Humana, [FN132] the Comisión Mexicana de Defensa y Promoción de los Derechos Humanos A.C, [FN133] and several amici curiai submitted to the Court. [FN134]

[FN130] Cf. Commission of the Chamber of Representatives, Violencia Feminicida en 10 entidades de la Republic Mexicana, supra note 86, folio 6889, and Comisión para Prevenir y Erradicar la Violencia contra las Mujeres en Ciudad Juárez, Primer Informe de Gestión, supra note 67, folio 8662.
[FN131] Cf. Final report of Observatorio Ciudadano, supra note 81, folio 6714.
[FN132] Cf. Centro para el Desarrollo Integral de la Mujer and AC/Red Ciudadana de No violencia y Dignidad Humana. Las Víctimas de Feminicidio en Ciudad Juárez. Informe del Estado de la Procuración de Justicia y el Acceso a las Garantías Judiciales sobre feminicidios y mujeres desaparecidas en Juárez, 1993–2007. Report to the Inter-American Commission on Human Rights, May 2007 (case file of attachments to the application, volume IV, appendix 5 Vol. III, folios 544 and 555).
[FN133] Cf. Comisión Mexicana de Defensa y Promoción de los Derechos Humanos A.C, Compendio de recomendaciones, supra note 65, folio 6654.
[FN134] Cf. Brief presented by the Global Justice and Human Rights Program of the Universidad de los Andes, Colombia (merits case file, volume XV, folio 4416); brief presented by the World Organization against Torture and TRIAL–Track Impunity (merits case file, volume VI, folio 2197), and brief presented by the Red Mesa de Mujeres de Ciudad Juárez (merits case file, volume XV, folio 4290).

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143. In light of the preceding paragraphs, in the instant case the Court will use the expression "gender-based murders of women," also known as femicide.

144. In the instant case, the Tribunal finds that, bearing in mind the evidence and the arguments about the evidence in the case file, it is not necessary or possible to make a final ruling on which murders of women in Ciudad Juárez constitute gender-based murders of women, other than the murders of the three victims in this case. Consequently, it will refer to the Ciudad Juárez cases as murders of women, even though it understands that some or many of them may have been committed for reasons of gender and that most of them took place within a context of violence against women.

145. Regarding the deaths that occurred in the instant case, in the following sections the Tribunal will analyze whether, based on the evidence provided by the parties, they constitute gender-based murders of women.

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1.7. Investigation into the murders of women

146. According to the Commission and the representatives, another factor that characterizes these murders of women is the failure to clarify them and the irregularities in the respective investigations which, they consider, have given rise to a climate of impunity. In this regard, the Tribunal takes note of the State's acknowledgement of "the commission of several irregularities in the investigation and processing of the murders of women perpetrated between 1993 and 2004 in Ciudad Juárez." The State also regretted "the mistakes committed up until 2004 by public servants who took part in some of these investigations."

1.7.1. Irregularities in the investigations and in the proceedings

147. Even though the State acknowledged that irregularities had been committed in the investigation and prosecution of the murders of women between 1993 and 2003 (supra para. 20), it did not specify the irregularities it had found in the investigations and the proceedings conducted over those years. However, the Court notes the observations of the IACHR Rapporteur in this regard:

The Mexican State, for its part, recognizes that mistakes were made during the first five years that it was confronted with these killings. It acknowledges, for example, that it was not uncommon for the police to tell a family member attempting to report a girl missing that they should return in 48 hours, when it was clear there might be something to investigate. Both State and non-state representatives indicated that the authorities in Ciudad Juárez would often dismiss initial complaints by saying the victim was out with a boyfriend and would soon return home. The PGJE [Office of the Attorney General of the state of Chihuahua] further noted a lack of technical and scientific capacity and training at that time for members of the judicial police. Officials of the State of Chihuahua indicated that the deficiencies were such that, in 25 cases dating back to the first years of the killings, the "files" consisted of little more than bags containing sets of bones, which provided virtually no basis to pursue further investigation. [FN135]

[FN135] IACHR, The Situation of the Rights of Women in Ciudad Juárez, supra note 64, folio 1750 (citing the letter of the Secretary of Government of Chihuahua to the Special Rapporteur of February 11, 2002).
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148. The Court observes that even when the details provided by the State authorities to the IACHR Rapporteur and indicated above were limited to the investigations and proceedings conducted up until 1998, the State itself acknowledged before the Tribunal that there had been irregularities up until 2004 (supra para. 20), although it did not describe them.

149. Several reports published between 1999 and 2005 agree that the investigations and proceedings concerning the murders of women in Ciudad Juárez have been plagued by irregularities and deficiencies [FN136] and that these crimes have remained in impunity. [FN137] According to the Special Prosecutor's Office, "it should be emphasized that the

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impunity of the unsolved cases occurred, principally, from 1993 to 2003, owing to serious omissions made by the personnel of the Office of the Attorney General of the state [of Chihuahua].” It added that, over that period, the “state governments failed to enact public policies to endow the state Attorney General’s Office with the infrastructure, working methods and specialized personnel that would have allowed it to conduct the investigations into the killings of women with an acceptable level of reliability.” [FN138]

[FN136] Cf. IACHR, The Situation of the Rights of Women in Ciudad Juárez, supra note 64, folio 1767; CNDH, Recomendación 44/1998, supra note 72, folios 2118 to 2129 and 2138; Report on Mexico produced by CEDAW, supra note 64, folio 1924, and Report of the United Nations Committee of International Experts, supra note 76, folio 1898.
[FN137] Cf. IACHR, The Situation of the Rights of Women in Ciudad Juárez, supra note 64, folio 1749; Report of the United Nations Committee of International Experts, supra note 76, folio 1869; CNDH, Informe Especial, supra note 66, folio 2167, and statement made before notary public by expert witness Castresana Fernández on April 21, 2009 (merits case file, volume VIII, folio 2904).
[FN138] Office of the Special Prosecutor for the Investigation of Crimes related to the Murders of Women in Ciudad Juárez, Informe Final, supra note 87, folio 14573.
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150. According to the evidence provided, the irregularities in the investigations and the proceedings included delays in starting investigations, [FN139] slowness of the investigations or absence of activity in the case files, [FN140] negligence and irregularities in gathering evidence and conducting examinations, and in the identification of victims, [FN141] loss of information, [FN142] misplacement of body parts in the custody of the Public Prosecutor’s Office, [FN143] and failure to consider the attacks on women as part of a global phenomenon of gender-based violence. [FN144] According to the U.N. Rapporteur on judicial independence, following a visit to Ciudad Juárez in 2001, he “was amazed to learn of the total inefficiency, incompetency, indifference, insensitivity and negligence of the police who investigated these cases earlier.” [FN145] For its part, the Special Prosecutor’s Office indicated in its 2006 report that, in 85% of 139 earlier investigations analyzed, it had detected responsibilities that could be attributed to public servants, serious deficiencies and omissions that “prevent resolving the respective murders, causing impunity.” [FN146]

[FN139] Cf. IACHR, The Situation of the Rights of Women in Ciudad Juárez, supra note 64, folio 1746, Report on Mexico produced by CEDAW, supra note 64, folio 1924, and Amnesty International, Intolerable killings, supra note 64, folio 2274.
[FN140] Cf. IACHR, The Situation of the Rights of Women in Ciudad Juárez, supra note 64, folio 1767; CNDH, Recomendación 44/1998, supra note 72, folio 2140; Office of the Special Prosecutor for the Investigation of Crimes related to the Murders of Women in Ciudad Juárez, Informe Final, supra note 87, folios 14579 and 14610; Press conference offered by the Assistant Attorney General for Human Rights, Services to Victims and to the Community and the Special Prosecutor for Crimes related to Acts of Violence against Women, in the Jurists Auditorium,

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Reforma 211, Mexico, D.F., February 16, 2006, annex 4 of the final report of Observatorio Ciudadano, supra note 81, folio 6714.
[FN141] Cf. IACHR, The Situation of the Rights of Women in Ciudad Juárez, supra note 64, folio 1750; CNDH, Recomendación 44/1998, supra note 72, folio 2140; Report of the United Nations Committee of International Experts, supra note 76, folio 1929, Office of the Special Prosecutor for the Investigation of Crimes related to the Murders of Women in Ciudad Juárez, Informe Final, supra note 87, folio 14579, and statement made before notary public by witness Doretti on April 17, 2009 (merits case file, volume VI, folio 2326 and 2327).
[FN142] Cf. IACHR, The Situation of the Rights of Women in Ciudad Juárez, supra note 64, folio 1750; Report of the United Nations Committee of International Experts, supra note 76, folios 1898 and 1899; testimony of witness Doretti, supra note 141, folio 2332.
[FN143] Cf. testimony of witness Doretti, supra note 141, folios 2371 and 2372.
[FN144] Cf. Report of the United Nations Committee of International Experts, supra note 76, folio 1897; CNDH, Recomendación 44/1998, supra note 72, folio 2154; CNDH, Informe Especial, supra note 66, folio 2227, and Amnesty International, Intolerable killings, supra note 64, folio 2279.
[FN145] Report of the U.N. Special Rapporteur on the independence of judges and lawyers, supra note 74, folio 2100.
[FN146] Office of the Special Prosecutor for the Investigation of Crimes related to the Murders of Women in Ciudad Juárez, Informe Final, supra note 87, folios 14575 and 14609.

1.7.2. Discriminatory attitude of the authorities

151. The Commission and the representatives alleged that the attitude of the State authorities to the killings of women in Ciudad Juárez was extremely discriminatory and dilatory, a situation that the Commission described as an “alarming pattern of response and stereotyped conceptions of the missing women.” In particular, the pattern “was reflected on the part of the [S]tate officials that the search and protection of women reported as having disappeared was not important” and meant that, initially, the authorities refused to investigate.

152. In this regard, the State indicated that the culture of discrimination against women contributed to the fact that “the murders were not perceived at the outset as a significant problem requiring immediate and forceful action on the part of the relevant authorities.” [FN147] The Tribunal observes that, although the State did not acknowledge this during the proceedings before the Court, it did forward the document in which this acknowledgement appears; [FN148] accordingly, it forms part of the body of evidence that will be examined in accordance with sound judicial discretion.

[FN147] Report on Mexico produced by CEDAW, supra note 64, folio 1957.
[FN148] Cf. Response of the Mexican Government to the CEDAW report under Article 8 of the Optional Protocol to the Convention, January 27, 2005 (case file of attachments to the answer to the application, volume XXV, attachment 6, folios 8612 to 8653).
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153. Various sources affirm that the context of gender-based discrimination had an impact on the way state officials responded to the crimes. [FN149] According to the U.N. Special Rapporteur on judicial independence, “certainly in the beginning, there was a great lack of sensitivity on the part of the police and prosecutors, who even went as far as to blame the women for their alleged low moral standards.” [FN150] The U.N. Rapporteur on extrajudicial executions indicated that:

[T]he arrogant behavior and obvious indifference shown by some state officials […] leave the impression that many of the crimes were deliberately never investigated for the sole reason that the victims were “only” young girls with no particular social status and who therefore were regarded as expendable. It is to be feared that a lot of valuable time and information may have been lost because of the delays and irregularities. [FN151]

[FN149] Cf. IACHR, The Situation of the Rights of Women in Ciudad Juárez, supra note 64, folios 1734 and 1742; Report on Mexico produced by CEDAW, supra note 64, folio 1928; Amnesty International, Intolerable killings, supra note 64, folios 2259 and 2269; testimony of expert witness Pineda Jaimes, supra note 112, folio 2832, and testimony of expert witness Jusidman, supra note 99, folio 3808.
[FN150] Report of the U.N. Special Rapporteur on the independence of judges and lawyers, supra note 74, folio 2100.
[FN151] Report of the U.N. Special Rapporteur on extrajudicial, summary or arbitrary executions, supra note 73, folio 2053.
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154. Evidence provided to the Court indicates, inter alia, that officials of the state of Chihuahua and the municipality of Juárez made light of the problem and even blamed the victims for their fate based on the way they dressed, the place they worked, their behavior, the fact that they were out alone, or a lack of parental care. [FN152] In this regard, it is worth noting the assertion by the CNDH in its Recommendation 44/1998 that it had documented statements by officials and authorities of the state Attorney’s Office that revealed an “absence of interest or willingness to pay attention to and remedy a serious social problem, as well as a form of discrimination” that constituted a “form of sexist denigration.” [FN153]

[FN152] Cf. IACHR, The Situation of the Rights of Women in Ciudad Juárez, supra note 64, folio 1765; Report on Mexico produced by CEDAW, supra note 64, folio 1928; Report of the U.N. Special Rapporteur on extrajudicial, summary or arbitrary executions, supra note 73, folio 2052; CNDH, Recomendación 44/1998, supra note 72, folio 2139, and testimony of expert witness Monárrez Fragoso, supra note 101, folios 3938 and 3940.
[FN153] CNDH, Recomendación 44/1998, supra note 72, folio 2155.

1.7.3. Absence of clarification

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155. The Commission emphasized that the response of the authorities to the crimes against women had been "notably deficient" and alleged that the great majority of the murders remained unpunished at the time of the IACHR Rapporteur's visit to Ciudad Juárez in 2002. It also indicated that, even though the State was aware of how serious the situation was, "there was a wide gap between the incidence of the problem of violence against women and the quality of the [S]tate response to this phenomenon, which propelled the repetition of the incidents".

156. The representatives alleged that, during the year in which the facts of the instant case occurred, "that is, eight years after it was evident that violence against women was increasing," the situation of impunity had not improved, and it was the year during which the most women were killed.

157. The State reiterated "its conviction that in [the instant case] and, in general as regards the murders of women in Ciudad Juárez, this does not constitute a situation of impunity, because a significant number of perpetrators have been investigated, pursued, captured, tried and punished." It also indicated that, from January 1993 to May 2008, 432 cases of murders of women had been recorded; of these "45.25% have been resolved by a jurisdictional body and 33.02% are being investigated."

158. The Court observes that various reports agree that the failure to solve the crimes is a very important characteristic of the killings of women in Ciudad Juárez. The 2003 Report of the IACHR Rapporteur indicates that the vast majority of the murders remained in impunity. [FN154] Furthermore, according to CEDAW "a culture of impunity has taken root which facilitates and encourages terrible violations of human rights," and the United Nations Office for Drugs and Crime indicated that the diverse and complex factors of the criminal phenomenon in Ciudad Juárez "had tested a system that was insufficient, which has been manifestly overwhelmed by the challenge of crimes for which it was unprepared, resulting in an institutional collapse that has determined the general impunity of those responsible for the crimes." [FN155]

[FN154] Cf. IACHR, The Situation of the Rights of Women in Ciudad Juárez, supra note 64, folio 1734.

[FN155] Report of the United Nations Commission of International Experts, supra note 76, folio 1869.

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159. The Tribunal observes that the various reports include different figures for the cases of murders of women in Ciudad Juárez. [FN156] According to the official figures provided by the State, which were not contested by the other parties, of 379 cases of murders of women in Ciudad Juárez between 1993 and 2005, 145 had been tried with judgments convicting the accused by 2005; [FN157] this represents around 38.5%. The State also provided the Court with a list of 203 final judgments concerning murders of women up until September 2008; of these, 192 are judgments convicting the accused. [FN158] In this regard, the Court observes that the State did not provide information on the global number of killings up until 2009, or any evidence with regard to its assertions that, in 2008, 41.33% of the murders of women had been resolved by a jurisdictional body and 3.92% by the Juvenile Court.

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[FN156] Cf. IACHR, The Situation of the Rights of Women in Ciudad Juárez, supra note 64, folio 1734; Report of the Special Rapporteur on violence against women, supra note 64, folio 2012, and CNDH, Recomendación 44/1998, supra note 72, folio 2232.
[FN157] Cf. Office of the Special Prosecutor for the Investigation of Crimes related to the Murders of Women in Ciudad Juárez, Informe Final, supra note 87, folios 14617 to 14651.
[FN158] Cf. files of 203 cases of murders of women committed in Ciudad Juárez, in which a final judgment has been handed down, September 2003 (case file of attachments to the final written arguments of the State, volume XLIX, attachment 6, folios 17347 to 17400).
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160. Regarding the judgments, specifically the sentences imposed on individuals responsible for intentional murder, the Special Prosecutor's Office observed in its 2006 report that they averaged no more than 15 years' imprisonment, even though most of the killings were committed with aggravating circumstances and that this:

may have been owing to a judicial policy that must be duly reviewed by the Judicial Branch of the State, or to the fact that the Public Prosecutor's Office within the ordinary jurisdiction did not take all the necessary measures to provide the judges with elements enabling them to punish those responsible more severely. [FN159]

[FN159] Office of the Special Prosecutor for the Investigation of Crimes related to the Murders of Women in Ciudad Juárez, Informe Final, supra note 87, folio 14612.
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161. A related aspect included in the reports is that there are fewer judgments, and the punishments are less, in cases of murders of women with sexual elements. On this point, according to figures that the State provided to the Inter-American Commission, of 229 cases involving the murder of women between 1993 and 2003, [FN160] 159 were cases with non-sexual motives and, of these, 129 had "concluded", while of 70 cases of murders of women with a sexual motive, only 24 had "concluded." [FN161] It is important to note that the State did not specify what it understands by "concluded" [FN162] and that, in this regard, in its answer to the CEDAW report, it stated that, up until 2004, of the 92 sexual offenses committed, sentences had been handed down in only four cases. [FN163]

[FN160] It should be noted that there are inconsistencies between the global figures, because according to the final report of the Special Prosecutor's Office, up until 2003 there had been 328 cases of murders of women in Ciudad Juárez (Office of the Special Prosecutor for the Investigation of Crimes related to the Murders of women in Ciudad Juárez, Informe Final, supra note 87, folio 14646).
[FN161] Cf. Attorney General's Office of the state of Chihuahua, Special Prosecutor's Office for the Investigation of Murders of Women, Ciudad Juárez, 2003. Attachments to the fourth monthly report of the State to the Inter-American Commission on Human Rights of February 17, 2003

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(case file of attachments to the answer to the application, volume XLII, attachment 75, folio 15446).
[FN162] In general, regarding the cases that the State refers to as "concluded", CEDAW indicated in its 2005 report that it was concerned about the fact that cases are considered, and recorded, as having been concluded or solved when they are brought before the courts, "even though the accused have neither been arrested nor punished" (Report on Mexico produced by CEDAW, supra note 64, folio 1950). Furthermore, and also in general, in its 2005 report, the CNDH indicated that it had "obtained sufficient information to disprove the affirmations of the PGJE [Office of the Attorney General of the state of Chihuahua], that cases had been solved without any legal grounds to support these assertions" (CNDH, Informe Especial, supra note 66, folio 2234).
[FN163] Cf. Report on Mexico produced by CEDAW, supra note 64, folio 1964. In this regard, it should be noted that, in its report, CEDAW indicated: "The Government assures us that judgments have been rendered in only 4 of the 90 cases considered to involve sexual violence, whereas nearly all of the civil society sources state that those 4 cases have not been resolved either, and that some of the accused may not be guilty. After eight years, only one prisoner has been convicted and punished, and that case is still in the appeal phase." (Report on Mexico produced by CEDAW, supra note 64, folio 1934).
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162. The Ciudad Juárez Commission, for its part, underscored that "[t]he most surprising element of these cases [of murders of women] is the impunity that still exists in many of those classified as sexual and/or serial." [FN164] According to CEDAW, in the cases linked to domestic violence or common crime, the Mexican authorities maintained that progress had been made in the investigation, identification and prosecution of the accused and that most of those convicted had been sentenced to more than 20 years in prison, while that in cases of acts of sexual violence, "[t]here are persons who are imprisoned for seven years, others for five and, although the Law establishes that the term of the sentence should be two years, files are sometimes incomplete and the judges are not convinced by the evidence." [FN165]Moreover, the U.N. Special Rapporteur on violence against women has indicated that the percentage of prison sentences for sexual crimes is lower than for the other crimes against women, representing 33.3% and 46.7%, respectively. [FN166]

[FN164] Comisión para Prevenir y Erradicar la Violencia contra las Mujeres en Ciudad Juárez, Tercer informe de gestión, supra note 101, folio 8997 (citing the second progress report, entitled "El feminicidio: formas de ejercer la violencia contra las mujeres).
[FN165] Report on Mexico produced by CEDAW, supra note 64, folio 1931.
[FN166] Cf. Report of the Special Rapporteur on violence against women, supra note 64, folio 2012.
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163. Lastly, the Tribunal observes that some reports indicate that impunity is related to discrimination against women. Thus, for example, the Report of the IACHR Rapporteur concludes that "[w]hen the perpetrators are not held to account, as has generally been the situation in Ciudad Juárez, the impunity confirms that such violence and discrimination is

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acceptable, thereby fueling its perpetuation." [FN167] Similarly, the U.N. Rapporteur on extrajudicial executions states that: "[t]he events in Ciudad Juárez thus constitute a typical case of gender-based crimes which thrive on impunity." [FN168]

[FN167] IACHR, The Situation of the Rights of Women in Ciudad Juárez, supra note 64, folio 1766.
[FN168] Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, supra note 73, folio 2053.

1.8. The Court's conclusions

164. Based on the foregoing, the Court concludes that, since 1993, there has been an increase in the murders of women, with at least 264 victims up until 2001, and 379 up to 2005. However, besides these figures, which the Tribunal notes are unreliable, it is a matter of concern that some of these crimes appear to have involved extreme levels of violence, including sexual violence and that, in general, they have been influenced, as the State has accepted, by a culture of gender-based discrimination which, according to various probative sources, has had an impact on both the motives and the method of the crimes, as well as on the response of the authorities. In this regard, the ineffective responses and the indifferent attitudes that have been documented in relation to the investigation of these crimes should be noted, since they appear to have permitted the perpetuation of the violence against women in Ciudad Juárez. The Court finds that, up until 2005, most of the crimes had not been resolved, and murders with characteristics of sexual violence present higher levels of impunity.

2. Facts of the case

2.1. Disappearances of the victims

165. Laura Berenice Ramos Monárrez was 17 years old and a fifth semester high school student. The last information about her was that she telephoned a girl friend on Saturday, September 22, 2001, to tell her that she was ready to go to a party. [FN169] The report that was filed indicated that she disappeared on Tuesday, September 25, 2001, without giving any further details. [FN170]

[FN169] Cf. appearance of Claudia Ivonne Ramos Monárrez before a deputy official of the Public Prosecutor's Office attached to the Special Prosecutor's Office to Investigate the Disappearances and Murders of Women, on October 1, 2001 (case file of attachments to the application, volume VIII, attachment 17, folio 2621) and appearance of Rocío Itxel Núñez Acevedo before a deputy official of the Public Prosecutor's Office attached to the Special Prosecutor's Office to Investigate the Disappearances and Murders of Women, on October 5, 2001 (case file of attachments to the application, volume VIII, attachment 19, folio 2625).
[FN170] Cf. Missing Person Report No. 225/2001, processed on September 25, 2001, with regard to Laura Berenice Ramos Monárrez (case file of attachments to the application, volume

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VIII, attachment 11, folio 2609), and appearance of Benita Monárrez Salgado before a deputy official of the Public Prosecutor's Office attached to the Office of the Special Prosecutor to Investigate Murders of Women and Disappearances of Persons on September 25, 2001 (case file of attachments to the application, volume VIII, attachments 12 and 14, folio 2611).
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166. Claudia Ivette González was 20 years old and worked for a maquila plant. According to a close friend, "when she went out, it was almost always for short periods, because she helped her sister take care of her daughter, and therefore sometimes arrived late" [FN171] at work. On October 10, 2001, she arrived at work two minutes late and, consequently, was not allowed in. [FN172] She disappeared that day. [FN173]

[FN171] Information taken from the report issued by two Judicial Police agents attached to the Joint Agency to Investigate and Prosecute the Murders of Women of Chihuahua on September 28, 2007 (case file of attachments to the answer to the application, volume XXXV, attachment 50, docket II, volume IV, folio 12974).
[FN172] Cf. Statement made on October 24, 2001, by Juan Antonio Martínez Jacobo before the Office of the Special Prosecutor to Investigate Murders of Women and Disappearances of Persons (case file of attachments to the application, volume VIII, attachment 23, folio 2637) and Missing Person Report No. 234/2001 processed on October 12, 2001, with regard to Claudia Ivette González (case file of attachments to the application, volume VIII, attachment 8, folio 2603).
[FN173] Cf. Missing Person Report No. 234/2001, supra note 172; appearance of Mayela Banda González before a deputy official of the Public Prosecutor's Office attached to the Office of the Special Prosecutor to Investigate Murders of Women and Disappearances of Persons on October 12, 2001 (case file of attachments to the answer to the application, volume XXXII, attachment 50 docket II, volume I, folio 11102), and testimony given by Mrs. González at the public hearing held before the Inter-American Court on April 28, 2009.
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167. Esmeralda Herrera Monreal was 15 years old and had completed "third year of secondary school." [FN174] She disappeared on Monday, October 29, 2001, after leaving the house where she worked as a domestic employee. [FN175]

[FN174] Appearance of Irma Monreal Jaime before an official of the Public Prosecutor's Office attached to the Office of the Special Prosecutor to Investigate Murders of Women and Disappearances of Persons on October 30, 2001 (case file of attachments to the application, volume VIII, attachment 29, folio 2653).
[FN175] Cf. appearance of Irma Monreal Jaime, supra note 174; Missing Person Report No. 241/2001, processed on October 30, 2001, with regard to Esmeralda Herrera Monreal (case file of attachments to the application, volume VIII, attachment 13, folio 2613), and testimony given by Mrs. Monreal at the public hearing held before the Inter-American Court on April 28, 2009.
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168. According to the representatives, the three young women, Ramos, González and Herrera, were of “humble origins.”

2.2. The first 72 hours

169. There are inconsistencies between the allegations of the Commission and the representatives on this point, because at times they indicate that the authorities told the next of kin that they must wait 72 hours in relation to one or two victims and, at other times, they indicate that it was in relation to all three victims. Furthermore, some allegations indicate that the report was not filed until 72 hours had passed, and others that the investigations were only started after 72 hours.

170. The State contested the foregoing and indicated that “this allegation has not been proved and is incorrect,” because “the reports of the disappearances of the young women were drawn up when their next of kin came forward to denounce them.” In addition, the State indicated, in general and without mentioning specific dates, that “the authorities […] ordered an immediate search to find the missing women,” “based on the information provided by the next of kin.”

171. The Court observes that Laura Berenice Ramos disappeared on September 22, 2001, and, according to the Commission and the representatives, her mother filed a complaint before the authorities on September 25; this was not contested by the State. The disappearance report was drawn up the same day.

172. Claudia Ivette González disappeared on October 10, 2001. The representatives alleged that her next of kin and close friends informed the authorities on October 11. [FN176] The Commission and the State indicated that the disappearance was reported on October 12. The date of the Missing Person Report is October 12, 2001. [FN177]

[FN176] Cf. appearance of Mayela Banda Gonzáles, supra note 173, folio 2605.
[FN177] Cf. Missing Person Report No. 234/2001, supra note 172.

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173. Esmeralda Herrera disappeared on October 29, 2001. The following day, a complaint was filed, [FN178] and the disappearance report is dated the same day. [FN179]

[FN178] Cf. testimony given, on April 5, 2006, by Irma Monreal Jaime before the Joint Agency to Investigate the Murders of Women (case file of attachments to the answer to the application, volume XXVIII, attachment 38, folio 9555), and appearance of Irma Monreal Jaime, supra note 174.
[FN179] Cf. Missing Person Report No. 241/2001, supra note 175.

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174. Except in the case of the mother of Claudia Ivette González, there is no evidence in the case file that the next of kin had approached the authorities before the date indicated above as the

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day on which the disappearance was reported. Neither the Commission nor the representatives contradicted the validity of the disappearance records provided by the State. Consequently, the Tribunal concludes that the missing person reports were drawn up on the same day that the disappearance were reported in the cases of Esmeralda Herrera and Laura Berenice Ramos, while in the case of Claudia Ivette González, the Court has insufficient evidence to determine whether the next of kin first approached the authorities on October 11 or 12; nevertheless, in any case, 72 hours did not elapse between the moment the next of kin approached the authorities and the time the missing person report was drawn up.

175. Regarding the alleged delay of 72 hours to open the investigation, the Court finds that, in all three cases, the same day that the "Missing Person Report" was drawn up, [FN180] the Program to provide Services to Victims of Crime (Programa de Atención a víctimas de Delitos) sent an official letter to the Head of the Judicial Police. [FN181] The purpose of these official letters was to indicate that the Program had been informed of the disappearances of the three victims and to ask the Judicial Police to conduct "investigations to try and clarify the facts." [FN182]

[FN180] Missing Person Report No. 225/2001, supra note 170, folio 2609; Missing Person Report No. 234/2001, supra note 172, and Missing Person Report No. 241/2001, supra note 175.
[FN181] Cf. Official letter No. 549/2001 issued on September 25, 2001, by the Coordinator of the Program to provide services to Victims of Crime and Disappeared Persons in relation to the disappearance of Laura Berenice Ramos Monárrez (case file of attachments to the answer to the application, volume XXVIII, attachments 20 and 90, folio 9420); official letter No. 589/2001 issued on October 12, 2001, by the Coordinator of the Program to provide services to Victims of Crime in relation to the disappearance of Claudia Ivette González (case file of attachments to the application, volume VIII, attachment 10, folio 2607), and official letter No. 634/01 issued on October 30, 2001, by the Program to provide services to Victims of Crime in relation to the disappearance of Esmeralda Herrera Monreal (case file of attachments to the answer to the application, volume XXVIII, attachments 32 and 88, folio 9575).
[FN182] Official letters Nos. 549/2001, 589/01 and 634/01, supra note 181.

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176. During the public hearing before the Tribunal, the mothers of the three victims stated that, during the first contact with the authorities, they were told that they should allow 72 hours to pass before considering that their daughters had disappeared; [FN183] this was reiterated in other statements. [FN184]

[FN183] Cf. testimonies given by Mrs. Monárrez, Mrs. González and Mrs. Monreal at the public hearing held before the Inter-American Court on April 28, 2009.
[FN184] Cf. voluntary appearance of Irma Monreal Jaime before an official of the Public Prosecutor's Office of the Joint Agency commissioned by the Federation to Investigate the Murders of Women, on October 20, 2003 (case file of attachments to the answer to the application, volume XXX, attachment 50, docket I, volume I, folio 10578); document presented to the IACHR by Josefina González and the Red Ciudadana de No Violencia and Dignidad

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Humana on September 3, 2006 (case file of attachments to the application, volume II, appendix 5, vol. I, folio 131), and document presented by Irma Monreal Jaime and the Asociación Nacional de Abogados Democráticos to the IACHR on July 29, 2005 (case file of attachments to the application, volume IV, appendix 5, vol. III, folio 734).
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177. According to the representatives, evidence of the delay in the start of the investigations could be found in the "103-F fact sheets (fichas)" of the 2003 special report of the CNDH. However, these fact sheets do not mention that the authorities made this type of affirmation. [FN185]

[FN185] Cf. CNDH, Informe Especial, supra note 66, folios 2192 to 2220.
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178. The opinions provided by the expert witnesses confirm that the mothers informed their respective psychiatrist or psychologist of the State's supposed refusal to open a possible inquiry before 72 hours had passed. [FN186] In addition, referring to all the Cotton Field disappearances, witness Delgadillo Pérez indicated that the investigations in "several files were not opened when the families reported them, but after 72 hours had passed," mentioning the case of Esmeralda Herrera specifically, and concluding that "[t]he first few hours, which were essential for the search, were lost." [FN187] Similarly, expert witness Jusidman Rapoport indicated that, even today, "the authorities consider that 72 hours must pass before they initiate the search for women that are reported as disappeared." [FN188] This was also indicated in the EAAF report in the case of Esmeralda Herrera. [FN189] The Court notes that, although these statements provide indications about a supposed delay of 72 hours before starting the search for disappeared persons, the expert witnesses did not indicate the source for their conclusions, based on which of which it would be possible to assess their affirmation. In addition, the testimony of the expert witnesses did not provide specific dates; hence, the Tribunal is unable to conclude whether, in their opinion, the 72-hour delay existed in 2001.

[FN186] Cf. Statement made before notary public by expert witness de la Peña Martínez on April 21, 2009 (merits case file, volume XI, folios 3350), and statement made before notary public by expert witness Azaola Garrido on April 20, 2009 (merits case file, volume XI, folios 3369).
[FN187] Statement made before notary public by witness Delgadillo Pérez on April 21, 2009 (merits case file, volume XI, folios 3481 and 3482).
[FN188] Testimony of expert witness Jusidman Rapoport, supra note 99, folio 3824.
[FN189] Cf. EAAF, Anthropological and forensic genetics appraisal, Esmeralda Herrera Monreal, June 12, 2006 (case file of attachments to the answer to the application, volume XXX, attachment 50, docket I, volume I, folio 10326).
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179. To resolve the matter, the Court bears in mind that, in this regard, the burden of proof corresponds to the State, because it is the State that maintains that its authorities went ahead with

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the investigations, and this must be proved. This, contrasts with the situation of the Commission and the representatives who alleged a negative fact; namely, the absence of investigation in the first 72 hours. The Court also takes into account that the means of proof are available to the State, so that its defense cannot rest on the impossibility of the plaintiffs providing evidence that cannot be obtained without the State's cooperation. [FN190]

[FN190] Cf. Case of Velásquez Rodríguez v. Honduras. Preliminary Objections, supra note 29, para. 135; Case of Kawas Fernández v. Honduras. Merits, Reparations and Costs. Judgment of April 3, 2009. Series C No. 196, para. 95, and Case of Escher et al. v. Brazil, supra note 46, para. 127.

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180. In this regard, the Tribunal observes that the evidence forwarded by the State indicates that, during the first 72 hours, the authorities merely registered the disappearances and the statements of those who reported them; an official letter from the Program to provide Services to Victims of Crime was issued, and the statements of only three people was taken, apart from the statements made at the time the disappearances were reported. [FN191] In other words, apart from the formal, routine procedures, the State did not submit any arguments or evidence about measures taken in said period to mobilize its investigative mechanisms in a real and effective search for the victims.

[FN191] In the case of Laura Berenice Ramos, there is the testimony of her father, Daniel Ramos Canales, of September 28, 2001 (case file of attachments to the application, volume VIII, attachment 15, folio 2615). In the case of Claudia Ivette González, a friend called Juana González Flores came forward voluntarily to give testimony on October 12, 2001, before a deputy official of the Public Prosecutor's Office attached to the Special Prosecutor's Office to Investigate the Disappearances and Murders of Women, on the day the disappearance was reported (case file of attachments to the answer to the application, volume XXXII, attachment 50, docket II, volume I, folios 11104 and 11105). In the case of Esmeralda Herrera, there is the testimony of Eduardo Chávez, who came foward voluntarily on November 2, 2001 (case file of attachments to the answer to the application, volume XXX, attachment 50, docket I, volume I, folios 10315 and 10316).

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181. In addition, the Court highlights that the State did not present a copy of the complete criminal case file in these cases as requested (supra para. 9). Consequently, the Tribunal has a margin of discretion to consider that certain types of facts have been established, when weighing them against the rest of the body of evidence. The Court therefore concludes that, even though it has not been proved that the authorities told the mothers of the victims that 72 hours had to elapse after their disappearance before the investigations could start, the State has not proved what concrete steps were taken and how it searched for the victims during said period.

2.3. Alleged failure to search for the victims before their remains were found

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182. The Commission alleged that "[t]he action of State authorities vis-à-vis these reports of disappearance was limited to formal and administrative steps, without specific measures aimed at finding the victims alive as soon as possible."

183. The representatives indicated that, owing to the "absence of effective action by the authorities," the three mothers "had to start their own search"; for example, by putting up posters on the streets, approaching the media, and conducting searches.

184. The State contradicted the foregoing and indicated that the authorities "ordered an immediate search to locate the disappeared women," "based on the information provided by the next of kin." In addition, it alleged that it took different measures to discover the whereabouts of the victims.

185. As previously indicated, on the day the disappearance of the victims was registered, the Judicial Police were asked to investigate. However, no reply of any kind to this request was provided, and the State did not offer details of the follow-up given to the request.

186. Moreover, even though there is evidence that the authorities prepared a poster with information on the disappearance of each victim, [FN192] these posters do not indicate the date on which they were issued and the State did not explain when and how they were circulated. According to Esmeralda Herrera's mother, she herself "distributed it and put it up in different parts of the city." [FN193] The mother of Claudia Ivette González stated that, after filing notice of the disappearance, they began "searching and putting up flyers with her photograph, […] and asking, searching in the Red Cross, in the hospitals," [FN194] and the mother of Laura Berenice Ramos said that she looked for her daughter "in every possible place." [FN195] This concurs with the testimony of witness Delgadillo Pérez, who stated that "[f]aced with the lack of institutional support, in desperation, the families themselves search the city trying to find their daughters." [FN196]

[FN192] Cf. Poster entitled "Help us find this person," issued by the Juárez Unit of the Special Group for Services to the Family of the Office of the Attorney General of the state of Chihuahua (case file of attachments to the application, volume IX, attachments 30, 31 and 32, folios 2655, 2657, and 2659).

[FN193] Document presented by Irma Monreal Jaime and the Asociación Nacional de Abogados Democráticos to the IACHR on July 29, 2005 (case file of attachments to the application, volume IV, appendix 5, vol. III, folio 756); voluntary appearance of Irma Monreal Jaime of October 20, 2003 (case file of attachments to the answer to the application, volume XXX, attachment 50, docket I, volume I, folios 10578); file card dated October 15, 2003 (case file of attachments to the answer to the application, volume XXX, attachment 50, docket I, volume I, folios 10571 and 10572); testimony of Irma Monreal Jaime before an official of the Public Prosecutor's Office of the Joint Agency to Investigate and Prosecute Murders of Women, given on April 5, 2006 (case file of attachments to the answer to the application, volume XXX, attachment 50, docket I, volume I, folios 10286 and 10287), and testimony of Benigno Herrrera Monreal before an official of the Public Prosecutor's Office of the Joint Agency to Investigate

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and Prosecute Murders of Women, given on April 5, 2006 (case file of attachments to the answer to the application, volume XXX, attachment 50, docket I, volume I, folio 10294).
[FN194] Testimony given by Mrs. González, supra note 183. The sister of Claudia Ivette González gave similar testimony mentioning steps taken by the family (Cf. appearance of Mayela Banda González, supra note 173).
[FN195] Testimony given by Mrs. Monárrez, supra note 183; appearance of Ivonne Ramos Monárrez, supra note 169, folio 2620; voluntary appearance of Benita Monárrez Salgado before an official of the Federal Public Prosecutor's Office attached to the Office of the Assistant Attorney for Regional Control, Criminal Proceedings and Amparo on October 20, 2003 (case file of attachments to the answer to the application, volume XXXVII, attachment 50, docket III, volume II, folio 13593), and appearance of Ivonne Ramos Monárrez before an official of the Federal Public Prosecutor's Office attached to the Office of the Assistant Attorney for Regional Control, Criminal Proceedings and Amparo on October 20, 2003 (case file of attachments to the answer to the application, volume XXXVII, attachment 50, docket III, volume II, folio 13600).
[FN196] Testimony of witness Delgadillo Pérez, supra note 187, folio 3523.
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187. Regarding Laura Berenice Ramos, in addition to the statement made when her disappearance was reported, [FN197] the authorities also received statements from two of her family members [FN198] and three of her school friends. [FN199] The Court observes that these statements gave indications that might have helped find Laura Berenice Ramos, such as information on a young man with whom she had frequently spoken by telephone, [FN200] places she often went to, [FN201] her plans for the evening of her disappearance, [FN202] about a young man who worked with her and other people who might have information, [FN203] and also about a man who, according to the statements, she did not want to go out with. [FN204]

[FN197] Cf. appearance of Benita Monárrez Salgado, supra note 170, folio 2611.
[FN198] Cf. appearance of Daniel Ramos Canales before a deputy official of the Public Prosecutor's Office attached to the Office of the Special Prosecutor to Investigate Murders of Women and Disappearances of Persons, on September 28, 2001 (case file of attachments to the application, volume VIII, attachment 15, folio 2615), and appearance of Claudia Ivonne Ramos Monárrez, supra note 169, folios 2619 to 2621.
[FN199] Cf. appearance of Ana Catalina Solís Gaytán before a deputy official of the Public Prosecutor's Office attached to the Office of the Special Prosecutor to Investigate Murders of Women and Disappearances of Persons, on October 1, 2001 (case file of attachments to the application, volume VIII, attachment 16, folio 2617); appearance of Diana América Corral Hernández before a deputy official of the Public Prosecutor's Office attached to the Office of the Special Prosecutor to Investigate Murders of Women and Disappearances of Persons, on October 1, 2001 (case file of attachments to the application, volume VIII, attachment 18, folio 2623), and appearance of Rocío Itxel Núñez Acevedo, supra note 169 (folios 2625 to 2626).
[FN200] Cf. appearance of Ana Catalina Solís Gaytán, supra note 199.
[FN201] Cf. appearance of Rocío Itxel Núñez Acevedo, supra note 169, folio 2626.
[FN202] Cf. appearance of Rocío Itxel Núñez Acevedo, supra note 169, folio 2626.
[FN203] Cf. appearance of Claudia Ivonne Ramos Monárrez, supra note 169, folios 2620 and 2621, and appearance of Rocío Itxel Núñez Acevedo, supra note 169, folio 2626.

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[FN204] Cf. appearance of Diana América Corral Hernández, supra note 199.
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188. Furthermore, in 2003, the mother of Laura Berenice Ramos testified about several telephone calls that she received in the days following her daughter's disappearance and that, during one of them, she "was able to hear her daughter, Laura, arguing with someone" and that, consequently, she went "to the state Attorney General's Office so that the telephone call could be traced" and was told that they could not trace it." [FN205] In addition, according to Mrs. Monárrez, no inquiries were made at the school where her daughter studied or other interviews with her friends or acquaintances, or in other places she used to go, in order to find her. [FN206] In addition, no steps were taken in relation to the telephone calls that Laura Berenice Ramos had made and received on her mobile phone. [FN207]

[FN205] Cf. file card of October 15, 2003 (case file of attachments to the answer to the application, volume XXXVII, attachment 50, docket III, volume II, folio 13580).
[FN206] Cf. document presented by Benita Monárrez Salgado and the Red Ciudadana de No Violencia and Dignidad Humana to the IACHR, supra note 184, folio 294.
[FN207] Cf. appearance of Rocío Itxel Núñez Acevedo, supra note 169, folios 2625 and 2626.
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189. In relation to Claudia Ivette González, in addition to the statement made when her disappearance was reported, [FN208] statements were taken from five friends, [FN209] a co-worker at the maquiladora, [FN210] her former boyfriend, [FN211] and two heads of security of the company. [FN212] These statements provided clues that might have helped the search for Claudia Ivette González, such as information about a young man with whom she was going out, [FN213] a couple who apparently watched her closely every time she passed them, [FN214] and a young man at work who pestered her. [FN215]

[FN208] Cf. appearance of Mayela Banda González, supra note 173.
[FN209] Cf. appearance of Juana González Flores, supra note 191; appearance of Ana Isabel Suárez Valenciana before an official of the Public Prosecutor's Office attached to the Office of the Special Prosecutor to Investigate Murders of Women and Disappearances of Persons, on October 16, 2001 (case file of attachments to the answer to the application, volume XXXII, attachment 50, docket II, volume I, folios 11106 to 11108); appearance of Aide Navarrete García before an official of the Public Prosecutor's Office attached to the Office of the Special Prosecutor to Investigate Murders of Women and disappearances of Persons, on October 16, 2001 (case file of attachments to the answer to the application, volume XXXII, attachment 50, docket II, volume I, folios 11109 to 11111); appearance of Armando Velazco Fernández before an official of the Public Prosecutor's Office attached to the Office of the Special Prosecutor to Investigate Murders of Women and Disappearances of Persons, on October 19, 2001 (case file of attachments to the answer to the application, volume XXXII, attachment 50, docket II, volume I, folios 11112 and 11113), and appearance of Verónica Hernández Estrada before an official of the Public Prosecutor's Office attached to the Office of the Special Prosecutor to Investigate Murders of Women and Disappearances of Persons, on October 19, 2001 (case file of

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attachments to the answer to the application, volume XXXII, attachment 50, docket II, volume I, folios 11114 to 11115).
[FN210] Cf. appearance of Efrén Pérez Maese before an official of the Public Prosecutor's Office attached to the Office of the Special Prosecutor for the Investigation of the Murders of Women and Disappearances of Persons, on October 24, 2001 (case file of attachments to the answer to the application, volume XXXII, attachment 50, docket II, volume I, folio 11116).
[FN211] Cf. appearance of Víctor Hugo Hernández Bonilla before an official of the Public Prosecutor's Office attached to the Office of the Special Prosecutor to Investigate Murders of Women and Disappearances of Persons, on October 25, 2001 (case file of attachments to the answer to the application, volume XXXII, attachment 50, docket II, volume I, folios 11119 to 11120).
[FN212] Cf. appearance of Juan Antonio Martínez Jacobo before an official of the Public Prosecutor's Office attached to the Office of the Special Prosecutor to Investigate Murders of Women and Disappearances of Persons, on October 24, 2001 (case file of attachments to the answer to the application, volume XXXII, attachment 50, docket II, volume I, folios 11117 to 11118) and appearance of Jesús Moisés Cuellar Juárez before an official of the Public Prosecutor's Office attached to the Office of the Special Prosecutor to Investigate Murders of Women and Disappearances of Persons, on October 25, 2001 (case file of attachments to the answer to the application, volume XXXII, attachment 50, docket II, volume I, folio 11121).
[FN213] Cf. appearance of Mayela Banda González, supra note 173; appearance of Juana González Flores, supra note 191; appearance of Ana Isabel Suárez Valenciana, supra note 209, folios 11106 and 11107; appearance of Aide Navarrete García, supra note 209, folio 11110, and appearance of Armando Velazco Fernández, supra note 209, folio 11113.
[FN214] Cf. appearance of Juana González Flores, supra note 191, folio 11105.
[FN215] Cf. appearance of Ana Isabel Suárez Valenciana, supra note 209, folio 11107.
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190. Moreover, the Commission alleged that the authorities were informed that, two weeks before her disappearance, Claudia Ivette González had been harassed by two police agents. However, the evidence for this submitted by the Commission corresponds to a 2005 newspaper Article – where Claudia Ivette's mother did not say when she had reported this fact to the authorities – and the other testimony in this regard was given in 2007 and 2009, [FN216] the State did not contest either the fact or the date on which it was alleged that the authorities were informed. In addition, it did not present the complete criminal case file. Consequently, the Tribunal considers it to be established that this information was given to the authorities prior to November 6, 2001; in other words, before Claudia Ivette's body was found. [FN217] The case file does not show that the investigators took any steps to investigate this information in order to find Claudia Ivette González alive.

[FN216] Cf. Newspaper Article entitled "Impunes crímenes de las ocho mujeres" [Murders of the eight women go unpunished] published in the daily newspaper "Norte" on November 6, 2005 (case file of attachments to the application, volume VIII, attachment 7, folio 2329); report issued by two Judicial Police agents, supra note 171; testimony given by Irma Josefina González before an official of the Public Prosecutor's Office attached to the Joint Agency to Investigate and Prosecute the Murders of Women in Ciudad Juárez, on February 12, 2009 (case file of

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attachments to the final written arguments of the State, volume XLVIII, attachment 4, folios 17193 and 17194), and testimony given by Ana Isabel Suárez Valenciana before an official of the Public Prosecutor's Office attached to the Prosecutor's Office to Respond to Murders of Women in Ciudad Juárez, on February 25, 2009 (case file of attachments to the final written arguments of the State, volume XLVIII, attachment 4, folio 17197).
[FN217] Similarly, see ECHR, Case of Pukhigova v. Russia, Judgment of 2 July 2009, paras. 75 and 84.
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191. One deponent indicated that a young man told her and Claudia Ivette's sister that "he was aware – he did not say how – that Claudia Ivette had disappeared." [FN218] There is no proof that the State carried out any investigation into this evidence.

[FN218] Testimony given by Ana Isabel Suárez Valenciana, supra note 209.
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192. According to the Commission, between the time that Claudia Ivette's disappearance was reported and when her remains were found, the only contact the authorities had with her family was two telephone calls from the Special Prosecutor's Office asking them whether they had any news. The State did not contest the foregoing or submit any evidence to the contrary.

193. In the case of Esmeralda Herrera, according to the State her mother told a police agent that her daughter knew a young man who worked in a printing shop and that "he had insisted that she go out for a meal with him," and that this young man had not gone to work the day the victim disappeared. Subsequently, the authorities received a statement from the young man, who acknowledged that he had spoken to Esmeralda, but denied that he had invited her out for a meal. [FN219] There is no evidence in the case file that the State took any other measure to try and find Esmeralda alive.

[FN219] Cf. appearance of Eduardo Chávez Marín before an official of the Public Prosecutor's Office attached to the Office of the Special Prosecutor to Investigate Murders of Women and Disappearances of Persons, on November 2, 2001 (case file of attachments to the answer to the application, volume XXX, attachment 50, docket I, volume I, folios 10315 to 10316).
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194. Although the State alleges that it began the search for the victims immediately, according to the case file, the only measures it took before the remains were found were registering the disappearances and preparing the posters reporting them, taking statements, and sending an official letter to the Judicial Police. There is no evidence in the case file that the authorities circulated the posters or made more extensive inquiries into reasonably relevant facts provided by the 20 or more statements taken. [FN220]

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[FN220] However, the Court observes that there is a testimony by a police agent indicating that other statements were taken, including some at the maquila where Claudia Ivette worked and the school where Esmeralda Ramos studied (Cf. testimony given by José Miramontes Caro on April 14, 2009, before an official of the Public Prosecutor's Office, case file of attachments to the final written arguments of the State, volume XLVIII, attachment 4, folios 17221 and 17222).
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195. In addition, the Court finds that these facts can be considered within a general context documented in the case file. Indeed, in January 2006, the United Nations Rapporteur on violence against women indicated that "[r]eportedly, the municipal police of Ciudad Juárez does not routinely initiate search actions or other preventive measures as soon as it receives a report about a missing woman. Inexplicably, the police often wait for confirmation that a crime has actually been committed." [FN221]

[FN221] Report of the Special Rapporteur on violence against women, supra note 64, folio 2018.

2.4. Stereotyping allegedly manifested by officials to the victims' next of kin

196. The Commission alleged that "when each disappearance was reported, the next of kin received comments from state officials regarding their daughter's behavior, which, in they opinion, influenced the subsequent lack of official action."

197. The representatives indicated that "the authorities minimized the facts or discredited" the reports by the victims' next of kin "on the pretext that they were young girls who 'were out with their boyfriend' or 'were out having a good time.'"

198. Esmeralda Herrera's mother testified that, when she reported her daughter's disappearance, the authorities told her that she "had not disappeared, but was out with her boyfriend or wandering around with friends," [FN222] "that, if anything happened to her, it was because she was looking for it, because a good girl, a good woman, stays at home." [FN223]

[FN222] Cf. Testimony given by Mrs. Monreal, supra note 183. See also the statement by Irma Monreal Jaime in the petition filed before the Inter-American Commission on March 6, 2002 (case file of attachments to the application volume XXVII, attachment 42, folio 9802). Similarly, the victim's brother testified that the authorities said they could not do anything "because she had obviously gone off with her boyfriend" (Cf. testimony of expert witness Azaola Garrido, supra note 186, folio 3369).
[FN223] Cf. testimony of Mrs. Monreal Jaime, supra note 183.
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199. Claudia Yvette's mother said that when she went to present the missing report, an official told a friend of her daughter that "she is surely with her boyfriend, because girls were very flighty and threw themselves at men." [FN224] Her mother also said that, when she went to file

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the complaint about the disappearance, she was told that "maybe [her daughter] had gone off with her boyfriend, and would soon return home." [FN225]

[FN224] Cf. communication presented by Josefina González before the Inter-American Commission in September 2006 (case file of attachments to the application, volume II, appendix 5 volume I, folio 141).
[FN225] Cf. testimony of Mrs. González, supra note183.
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200. The mother of Laura Berenice Ramos stated that the police agents told her that she would have to look for her daughter, because "all the girls who get lost, all of them, […] go off with their boyfriend or want to live alone." [FN226] She added that, on one occasion, she asked the police agents to accompany her to a dance hall to look for her daughter; they said "no Señora, it's very late, we have to go home and rest and you should wait for your moment to look for Laura," and patted her on the shoulder saying: "go home and relax, have some 'heladas' [beer] and offer a toast to our health; because we can't go with you." [FN227]

[FN226] Cf. testimony of Mrs. Monárrez, supra note 183.
[FN227] Cf. testimony of Mrs. Monárrez, supra note 183, and file card issued by the Head of the Federal Investigation Agency reporting on the interview with Benita Monárrez Salgado on October 15, 2003 (case file of attachments to the answer to the application, volume XXXVII, attachment 50, docket III volume II, folio 13579).
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201. The State did not contest this testimony by the mothers of the victims.

202. In addition, the testimony of Mrs. Delgadillo Pérez concerning the authorities' actions in this case indicated that "[t]he responsibility of the victim was determined based on her social role in society in the investigator's opinion. This means that, if the murdered woman liked to have a good time, to go out dancing, to have male friends and a social life, she was considered to be partly responsible for what happened." [FN228] According to the witness "[a]t that time, public officials stigmatized the victims of disappearance because they were women," on the pretext that "they were with their boyfriend" or "out having a good time," "[t]hey even blamed the mothers for allowing their daughters to go out alone or to go out at night." [FN229]

[FN228] Cf. testimony of witness Delgadillo Pérez, supra note 187, folio 3481.
[FN229] Cf. testimony of witness Delgadillo Pérez, supra note 187, folios 3494 and 3495.
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203. The Tribunal underscores that the testimony of Mrs. Delgadillo Pérez and the statements by the victims' mothers and next of kin concur with the context described by different national and international organizations in which public officials and authorities "minimized the

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problem" and showed a "lack of interest and willingness to take steps to resolve a serious social problem" (supra para. 154).

204. The representatives related the comments made by the officials who handled the cases to a policy that, at the time of the facts, made a distinction between "high-risk disappearances" and others that were not high risk.

205. Amnesty International indicated that "in 2001, the PGJECH [the Office of the Attorney General for the state of Chihuahua] had put in practice a criterion of 'high-risk disappearances,' based merely on the victim's behavior. If the disappeared woman had a stable routine, she could be a candidate for this type of search. The criterion was highly discriminatory and difficult to implement because, in 2003, only one case of disappearance was considered to be high risk." [FN230]

[FN230] According to an Amnesty International report, in March 2003, of the total 69 disappearances that were active, only one case in Ciudad Juárez was considered by the authorities to be "high risk." This was the case of an 18-year-old girl disappeared since May 10, 2002 (Cf. Amnesty International, Intolerable killings, supra note 64, folio 2274). It should be noted that, according to the CNDH, an official letter of June 18, 2003, reveals "that the cases of [five persons] were considered 'high risk'" (CNDH, Informe Especial, supra note 66, folio 2204).

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206. Similarly, in 2003, the CNDH stated that "[t]hree years ago, the state Attorney General's Office adopted a system of 'high-risk' disappearances, based on whether, prior to disappearing, the young woman had a stable routine and had [not] expressed her wish to leave her family." [FN231] Moreover, in 2003, CEDAW expressed its concern at the distinction made between disappearances of women who were considered at 'high risk' and others who were not. [FN232]

[FN231] CNDH, Informe Especial, supra note 66, folio 2174.
[FN232] Cf. Report on Mexico produced by CEDAW, supra note 64, folio 1950.

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207. The Court also observes that the missing person's form on which the next of kin reported the disappearance required information on the "sexual preferences" of the victims. [FN233]

[FN233] Missing Person Report No. 225/2001, supra note 170, folio 2609; Missing Person Report No. 234/2001, supra note 172, folio 2603, and Missing Person Report No. 241/2001, supra note 175, folio 2613.

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208. The Tribunal considers that, in the instant case, the comments made by officials that the victims had gone off with a boyfriend or that they led a disreputable life, and the use of questions

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about the sexual preference of the victims constitute stereotyping. In addition, both the attitude and statements of the officials reveal that, at the very least, they were indifferent towards the next of kin of the victims and their complaints.

2.5. Discovery of the bodies

209. On November 6, 2001, the bodies of three women were found in a cotton field. [FN234] These three women were subsequently identified as Mss. Ramos, González and Herrera. On November 7, 2001, nearby in the same cotton field, the bodies were found of another five women, [FN235] who are not considered alleged victims in this case, for the reasons set out in the Court's order of January 19, 2009. [FN236]

[FN234] Cf. Official record of the removal of the remains of unidentified bodies Nos. 188/2001, 189/2001 and 190/2001 issued by the Technical Office of Expert Services of the Office of the Attorney General for the state of Chihuahua on November 6, 2001 (case file of attachments to the application, volume IX, attachment 35, 36 and 37, folios 2672 to 2675, 2677 to 2679 and 2681 to 2683).

[FN235] Cf. attestation of evidence issued by an official of the Public Prosecutor's Office attached to the Office of the Special Prosecutor for the Investigation of the Murders of Women in Preliminary Investigation file No. 27913/01/1501 of November 8, 2001 (case file of attachments to the pleadings and motions brief, volume XIV, attachment 3, folios 4778 to 4783).

[FN236] In the order, the Court indicated, inter alia:

That […] the Commission issued admissibility reports with regard to […] only three victims and their next of kin. […]

That, following the adoption of the admissibility report, during the merits stage, the representatives asked the Commission to rule on possible violations of the rights of the other presumed victims found in the cotton field. In particular, they asked the Commission to process these cases motu proprio and joinder them to the cases that were already underway, or that, additionally, it consider the ANAD as a petitioner for the new presumed victims.

[…]

That […] the Commission never referred to the requests of the petitioners […]. The Court observes that the representatives were only made aware of the Commission's position three years later, when the Court requested information on this issue.

[…]

That, since, in the case of the new presumed victims alleged by the representatives, all the necessary procedural stages had not been conducted to allow the Commission to include them in its report on merits, the Court must reject the request to include María de los Ángeles Acosta Ramírez, Guadalupe Luna of the Rosa, Mayra Juliana Reyes Solís, Verónica Martínez Hernández, Bárbara Aracely Martínez Ramos, María Rocina Galicia Meraz, Merlín Elizabeth Rodríguez Sáenz and the woman who is still unidentified female 195/01, as well as Víctor Javier García Ramírez, Gustavo González Meza and Edgar Álvarez Cruz, as presumed victims in the instant case. […]

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210. The Commission and the representatives stated that the bodies of Mss. Herrera, González and Ramos had been subjected to particular brutality by the perpetrators of the killings. The representatives added that "[t]he way in which the bodies [of the three victims] were found suggests that they were raped and abused with extreme cruelty."

211. The State alleged that the autopsy report concluded that "it was not possible to observe the initial conditions of the bodies (post-mortem rigor and livor mortis) owing to the passage of time and the actions of the environment on them, which implied that the degree of decomposition was so great that it prevented detailed scientific analysis and, therefore, establishment of the cause of death." Mexico emphasized that the "state of decomposition of the bodies (a natural phenomenon that could not be attributed to it)" prevented "determining the cause of death." Furthermore, it indicated that the "first measure taken by the Attorney-General's Office was to determine the nature of the deaths, taking into consideration the conditions in which the bodies were found."

212. The evidence provided reveals that, on November 6, 2001, the day on which the bodies of the three alleged victims were found, the official record of the removal of the bodies was drawn up, [FN237] together with an affidavit (fe ministerial) on the place and the bodies. [FN238] In addition, the autopsies were performed, and the respective reports were issued on November 9, that year. [FN239] These documents include the following information:

a) Regarding Esmeralda Herrera Monreal: she was wearing a blouse, torn on the upper right side, [FN240] and a brassiere, both garments raised above her breasts, and also torn white socks. The body was in an incomplete state of conservation, she was lying on her back, with her head pointing east, her legs were bent and facing the opposite direction, while her arms were tied behind her lower back with a black cord twisted twice round each wrist, with two knots on the right wrist and three on the left hand. The cord was circled round her body in the abdominal region. When the rope was removed, bruising could be seen around her wrists. The skin was violaceous to blackish in color. Some flesh had been removed from her skull and neck, and also from the area of the right collar bone, right shoulder, upper third of the right arm and the right breast. Some hair was adhered to the cranium. Absence of the right mammary area. Partial absence of parts of the nipple of the left breast. Both hands revealed the removal of the skin in the form of a glove. The body had been invaded by insects. There was a red stain on the ground under the skull. The report noted that the cause of death could not be established and that the time of death was from 8 to 12 days;
b) Regarding Claudia Ivette González: she was wearing a white blouse with shoulder straps and a light-colored brassiere. Her body was in an incomplete state of conservation. She was lying on her right side, with her head pointing east; her right arm was under her thorax and the left arm was half-bent and separated from the body. Her right leg was extended and pointing in the opposite direction to the head and the left leg was bent at the knee. Presence of vegetation corresponding to the place. Skull skinned with little presence of the scalp. Absence of tissue on the neck and throat. The report noted that the cause of death could not be established and that the time of death was from 4 to 5 weeks, and
c) Regarding Laura Berenice Ramos Monárrez: she was wearing a white V-neck blouse with straps around her neck, and a black brassiere both raised above the mammary area, and a flat 5 mm-wound was present in the right nipple that sliced off the tip. The state of conservation

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of the body was incomplete. It was found lying on the back with the skull pointing south, the legs pointing in the other direction and the arms extended above the head. The skin was withered. The skin had been removed from the back of the skull. Scant presence of hair, cut irregularly. When the body was discovered, it was covered by vegetation corresponding to place where it was found. The report noted that the cause of death could not be established and that the time of death was from 4 to 6 weeks. [FN241]

[FN237] Cf. Records of the removal of a body, supra note 234, folios 2672 to 2683.
[FN238] Cf. affidavit (fe ministerial) concerning the place and the bodies made by an official of the Chihuahua Public Prosecutor's Office and two assisting witnesses on November 6, 2001 (case file of attachments to the application, volume IX, attachment 33, folios 2661 to 2667).
[FN239] Cf. autopsy reports of unidentified bodies Nos. 188/2001, 189/2001 and 190/2001 issued by a Forensic Expert of the Technical Office of Expert Services of the Chihuahua Attorney General's Office, on November 9, 2001 (case file of attachments to the application, volume IX, attachments 40, 41 and 42, folios 2696, 2697, 2699, 2700, 2702 and 2703).
[FN240] The affidavit on the place and bodies indicates the following: "striped white, pink and red blouse, torn in the upper right part" (Cf. affidavit on the place and bodies, supra note 238, folio 2662). While the autopsy report refers to a "torn red, white and orange blouse with part of the right side missing" (Cf. autopsy report on unidentified body No. 188/2001, supra note 239, folio 2696).
[FN241] It should be noted that the record of the removal of the body establishes the time of death at 3 to 4 weeks (Cf. record of the removal of an unidentified body No. 190/2001, supra note 234, folio 2681). On the other hand, the autopsy report establishes a time of death of 4 to 6 weeks. (Cf. autopsy report of unidentified body 190/2001, supra note 239, folio 2703).

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213. On February 2, 2002, the field experts who conducted the removal of the bodies in November 2001 issued a criminology report [FN242] indicating, inter alia, that "it can be established that the attack[s] were perpetrated in the place from which the bodies were removed." They added that, although the autopsy was unable to determine whether rape had been committed, "owing to the semi-naked conditions in which the bodies were found, it is highly probable that these were […] crime[s] of a sexual nature."

[FN242] Cf. criminology report issued by experts in the areas of on-site criminology, forensic photography and forensic excavation from the Office of the Attorney General for the state of Chihuahua dated February 2, 2002 (case file of attachments to the application, volume IX, attachment 62, folios 2914 to 2920).

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214. Specifically, with regard to Esmeralda Herrera, they concluded that "owing to the complicated way she had been tied up […] from her waist to her upper extremities, [it was] possible to establish that she was already tied up on her arrival at the scene of the crime"; that, regarding the absence of soft tissue from the thorax to the head it was "possible to establish that

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[…] there was an injury in that area that caused her death," and that it was "feasible to suppose that the cause of death was by strangling."

215. Regarding Laura Berenice Ramos, the field experts concluded that, based on the bruising on various osseous tissues, it could "be established that […] she had been severely beaten before she died."

216. Regarding the criminology reports issued by field experts, the Director of Forensic Medicine informed the Seventh Criminal Court on July 9, 2003, that "experts in on-site criminology are not competent to determine matters that are strictly medical, such as establishing the cause of death of each of the bodies mentioned on the different pages of the case file […];furthermore, it is also not possible for them to establish the possible time of death of each one; this corresponds to the area of forensic medicine." [FN243]

[FN243] Cf. statement made by the Director of the Expert Services and Forensic Medicine Department of the Office of the Attorney General of the state of Chihuahua, contained in a decision signed by the Seventh Criminal Judge of the Morelos Judicial District on July 9, 2003 (case file of attachments to the application, volume IX, attachment 74, folios 2982 to 2983).

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217. The resolution issued by the Fourth Chamber of the Court of Chihuahua on July 14, 2005, concerning the criminology report (supra para. 213), stated that the "experts refer to probabilities, which are only suppositions or conjectures that, owing to their subjective nature, […] are not an appropriate means of obtaining the legal and historic truth of what really happened in this case." [FN244]

[FN244] Cf. judgment of July 14, 2005 delivered by the Fourth Criminal Chamber of the Supreme Court of Justice of the state of Chihuahua (case file of attachments to the application, volume X, attachment 83, folios 3422 to 3500).

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218. On November 18, 2005, the Argentine Forensic Anthropology Team (EAAF) performed a second autopsy on the remains of Esmeralda Herrera. [FN245] The team established that the autopsy performed on November 6, 2001 (supra para. 212) had not taken into account the general principles on which a proper forensic autopsy should be based, so that "[s]ince it had not respected these principles, it did not achieve the objectives of a forensic autopsy […]. At some places in the text, there is even some […] confusion [and i]t lacks the necessary thoroughness to make a deferred diagnosis since the autopsy was not complete and complementary tests were lacking." The EAAF concluded that "[f]rom reading the autopsy, given the poor description of the internal and external examinations, it is not possible to extract valid conclusions which would have allowed a well-grounded hypothesis of the cause of death to be established." Regarding Laura Berenice Ramos, the family only had a collar bone, which they handed over to the EAAF for confirmation of identity, because they had cremated the other remains. [FN246] The remains

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of Claudia Ivette González were not included in the cases re-examined by the EAAF, owing to the refusal of her next of kin. [FN247]

[FN245] Cf. second autopsy of Esmeralda Herrera Monreal performed by Luis Alberto Bosio on November 18, 2005 (merits case file, volume VII, folio 2481).
[FN246] Cf. appearance of Benita Monárrez Salgado before an official of the Chihuahua Public Prosecutor's Office on July 24, 2006 (merits case file, volume VII, folio 2718).
[FN247] Cf. forensic DNA and anthropological report concerning Esmeralda Herrera Monreal issued by the Argentine Forensic Anthropology Team on June 12, 2006 (case file of attachments to the answer to the application, volume XXX, attachment 50, docket I, volume I, folio 10341).
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219. Despite the deficiencies in the initial stages of the investigations, especially in the autopsy procedure – which the Court will refer to below in greater detail – in the case of Esmeralda Herrera Monreal it can be concluded that, since her hands were tied behind her back, the lower part of her body exposed, her blouse and brassiere raised above her breasts, part of her right breast missing and parts of her left nipple damaged (supra para. 212), she must have endured such cruelty that it had to have caused her severe physical and mental suffering before she died.

220. With regard to Laura Berenice Ramos Monárrez and Claudia Ivette González, this Tribunal is unable to differentiate scientifically which injuries were caused by abuse and which by the passage of time owing to the above-mentioned deficiencies in the first stage of the investigations. Consequently, it must take into consideration the different factors relating to the disappearance of the victims. Specifically that, with all probability, the treatment they experienced during the time they remained kidnapped before their death caused them, at the very least, severe mental suffering and that, very possibly, the acts that took place before they died, as in the case of Esmeralda Herrera Monreal, had a sexual motive, because the young women were found with the lower part of their bodies exposed and, in the case of Laura Berenice Ramos Monárrez, her blouse and brassiere had been raised above her breasts (supra para. 212). The foregoing, combined with the fact that, at the time of the disappearance of the victims, there were numerous similar cases in Ciudad Juárez in which the women showed signs of "sexual violence" (supra paras. 116 and 117).

221. The three victims were deprived of their liberty before they died. Owing to the deficiencies in the autopsy reports, the Court is unable to establish the length of their captivity with certainty.

3. The violence against women in this case

222. The Commission and the representatives referred to what Mss. González, Ramos and Herrera, experienced as "violence against women." The representatives alleged that "the killings in this case are similar in their infinite cruelty; they are crimes of hate against the girls and women of Ciudad Juárez, misogynous crimes born from an immense tolerance – and social and State encouragement – of general violence against women."

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223. The State recognized "[t]he situation of violence against women in Ciudad Juárez […] as a problem, all aspects of which must be combated."

224. Before examining the possible international responsibility of the State in this case, the Tribunal deems it pertinent to establish whether the violence suffered by the three victims constitutes violence against women under the American Convention and the Convention of Belém do Pará.

225. In the case of the Miguel Castro Castro Prison v. Peru, the Court referred to the scope of Article 5 of the American Convention in relation to the specific aspect of violence against women, using the relevant provisions of the Convention of Belém do Pará and the Convention on the Elimination of all Forms of Discrimination against Women as a reference for interpretation, because these instruments complement the international corpus juris, which the American Convention is part of, as regards the protection of the personal integrity of women. [FN248]

[FN248] Cf. Case of the Miguel Castro Castro Prison v. Peru. Merits, Reparations and Costs. Judgment of November 25, 2006. Series C No. 160, para. 276.

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226. The Convention of Belém do Pará defines violence against women as "any act or conduct, based on gender, which causes death or physical, sexual or psychological harm or suffering to women, whether in the public or the private sphere." [FN249]

[FN249] Article 1 of the Convention of Belém do Pará.

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227. This Tribunal has established "that not all human right violation committed against a woman implies necessarily a violation of the provisions in the Convention of Belém do Pará." [FN250]

[FN250] Case of Perozo et al. v. Venezuela, supra note 22, para. 295.

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228. In the instant case, the Court takes note, firstly, of the State's acknowledgement of the situation of violence against women in Ciudad Juárez (supra para. 222), and also its statement that the murders of women in Ciudad Juárez "are influenced by a culture of discrimination against women" (supra para. 129).

229. Secondly, the Court notes that it has established above (supra para. 133) that the reports of the IACHR Rapporteur, CEDAW and Amnesty International, among others, indicate that many of the killings of women in Ciudad Juárez are manifestations of gender-based violence.

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230. Thirdly, the three victims in this case were young, underprivileged women, workers or students, as were many of the victims of the murders in Ciudad Juárez (supra para. 123). They were abducted and their bodies appeared in a cotton field. It has been accepted as proved that they suffered physical ill-treatment and very probably sexual abuse of some type before they died.

231. All of this leads the Court to conclude that Mss. González, Ramos and Herrera, were victims of violence against women according to the American Convention and the Convention of Belém do Pará. On the same basis, the Court considers that the murders of the victims were gender-based and were perpetrated in an acknowledged context of violence against women in Ciudad Juárez. The Tribunal must now analyze whether the violence perpetrated against the victims, which ended their life, can be attributed to the State.

4. Obligation of non-discrimination and respect and guarantee of rights embodied in Articles 4, 5 and 7 of the American Convention and access to justice in accordance with Articles 8 and 25 thereof

232. The Inter-American Commission did not plead the violation of Articles 5 and 7 of the Convention to the detriment of the victims. Nevertheless, the Court reiterates that the alleged victims and their representatives may invoke the violation of rights other than those included in the application, inasmuch as they are entitled to all the rights embodied in the Convention, provided this is related to the facts described in the application, [FN251] which provides the factual framework for the proceedings. [FN252] It is in the brief with pleadings, motions and evidence that the alleged victims or their representatives exercise fully that right of locus standi in judicio. [FN253]

[FN251] Cf. Case of the “Five Pensioners” v. Peru. Merits, Reparations and Costs. Judgment of February 28, 2003. Series C No. 98, para. 155; Case of Kawas Fernández v. Honduras, supra note 190, para. 127, and Case of Escher et al. v. Brazil, supra note 46, para. 191.
[FN252] Cf. Case of the “Mapiripán Massacre” v. Colombia. Merits, Reparations and Costs. Judgment of September 15, 2005. Series C No. 134, para. 59; Case of Escher et al. v. Brazil, supra note 46, para. 63, and Case of Garibaldi v. Brazil. Preliminary Objections, Merits, Reparations and Costs. Judgment of September 23, 2009. Series C No. 203, para. 59.
[FN253] Cf. Case of the “Mapiripán Massacre” v. Colombia, supra note 252, para. 56; Case of Perozo et al. v. Venezuela, supra note 22, para. 33, and Case of Reverón Trujillo v. Venezuela, supra note 47, para. 135.

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233. In the instant case, the arguments of the representatives in relation to the supposed violation of Articles 5 and 7 of the Convention were submitted to the Court in their pleadings and motions brief and were based on facts included in the Commission’s application. Therefore, the Tribunal will examine them.

234. The Court has established that, pursuant to Article 1(1) of the Convention, States are obliged to respect and ensure the human rights established therein. The international

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responsibility of the State is based on the acts or omissions of any branch or entity of the State, irrespective of its hierarchy, that violate the American Convention. [FN254]

[FN254] Cf. Case of Cantoral Huamaní and García Santa Cruz v. Peru. Preliminary Objection, Merits, Reparations and Costs. Judgment of July 10, 2007. Series C No. 167, para. 79, and Case of Kawas Fernández v. Honduras, supra note 190, paras. 72 and 73.

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235. Regarding the obligation to respect, the Court has stated that the first obligation assumed by the States Parties, in the terms of said Article, is that of "respecting the rights and freedoms" recognized in the Convention. Thus, the notion of limitations to the exercise of the power of the State is necessarily included in the protection of human rights. [FN255]

[FN255] Cf. The Word "Laws" in Article 30 of the American Convention on Human Rights, Advisory Opinion OC-6/86 of May 9, 1986. Series A No. 6, para. 21.

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236. With regard to the obligation to guarantee, the Court has established that it may be fulfilled in different ways, based on the specific right that the State must guarantee and on the specific needs for protection. [FN256] This obligation refers to the duty of the States to organize the entire government apparatus and, in general, all the structures through which public authority is exercised, so that they are able to ensure by law the free and full exercise of human rights. [FN257] As part of this obligation, the State has the legal obligation "to prevent human rights violations and to and to use the means at its disposal to carry out a serious investigation of violations committed within its jurisdiction, to identify those responsible, to impose the appropriate punishments on them, and to ensure adequate the victim adequate compensation." [FN258] The most important factor is to determine "whether a violation […] has occurred with the support or the acquiescence of the government or whether the State has allowed the act to take place without taking measures to prevent it or to punish those responsible." [FN259]

[FN256] Cf. Case of the "Mapiripán Massacre" v. Colombia, supra note 252, paras. 111 and 113; Case of Perozo v. Venezuela, supra note 22, para. 298, and Case of Anzualdo Castro v. Peru, supra note 30, para. 62.
[FN257] Cf. Case of Velásquez Rodríguez v. Honduras. Merits. Judgment of July 29, 1988. Series C No. 4, para. 166; Case of Kawas Fernández v. Honduras, supra note 190, para. 137, and Case of Anzualdo Castro v. Peru, supra note 30, para. 62
[FN258] Case of Velásquez Rodríguez v. Honduras. Merits, supra note 257, para. 174, and Case of Anzualdo Castro v. Peru, supra note 30, para. 62
[FN259] Case of Velásquez Rodríguez v. Honduras. Merits, supra note 257, para. 173; Case of Godínez Cruz v. Honduras. Merits. Judgment of January 20, 1989. Series C No. 5, para. 182, and Case of Gangaram Panday v. Suriname. Merits, Reparations and Costs. Judgment of January 21, 1994. Series C No. 16, para. 62.

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237. Accordingly, the Tribunal must verify whether Mexico fulfilled its obligation to respect and ensure the rights to life, personal integrity and personal liberty of Mss. González, Ramos and Herrera.

4.1. Obligation to respect

238. The Commission argued that "in the instant case, […] no one knows whether the murderers were private individuals or public officials, since the three cases continue in impunity."

239. According to the representatives, "according to the testimonial statements, in the cases of Laura Berenice and Claudia Ivette, their mothers indicated some relationship between public officials and the disappearance of their daughters." In particular, the representatives indicated that, in 2003, Mrs. Monárrez testified that, at the time of the facts, her daughter was involved with a member of the judicial police, but the State did not summon him to give testimony until 2007.

240. The representatives indicated that "[a]lthough we do not have any direct evidence, throughout this brief, we have described various circumstances that the State has been unable to clarify" and that maintain the case in impunity. According to the representatives, this impunity "leads to two hypotheses about the perpetrators of the disappearance, torture and murder of Esmeralda, Laura and Claudia: (a) the authors were public officials, or (b) they were organized private individuals, protected by the State."

241. The State denied that public officials had any responsibility in the murders of the victims.

242. Both the Commission and the representatives alluded to the possible participation of public officials without providing any evidence in this regard, beyond the statement by Mrs. Monárrez. [FN260] The fact that the impunity in the present case makes it is impossible to know whether the perpetrators were public officials, or private individuals acting with their support and tolerance, cannot lead this Tribunal to presume that there were in fact public officials involved and to automatically condemn the State for failing to comply with its obligation to respect. Accordingly, the Court is unable to attribute to the State international responsibility for violations of the substantive rights embodied in Articles 4, 5 and 7 of the American Convention.

[FN260] Cf. testimony given before notary public by Mrs. Monárrez Salgado on July 23, 2006 (case file of attachments to the answer to the application, volume XXXVI, attachment 50, docket 2, volume I, folio 13082).

4.2. Obligation to guarantee

243. The Tribunal reiterates that the States should not merely abstain from violating rights, but must adopt positive measures to be determined based on the specific needs of protection of the

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subject of law, either because of his or her personal situation or because of the specific circumstances in which he or she finds himself. [FN261]

[FN261] Cf. Case of Baldeón García v. Peru. Merits, Reparations and Costs. Judgment of April 6, 2006. Series C No. 147, para. 81; Case of the Sawhoyamaxa Indigenous Community v. Paraguay. Merits, Reparations and Costs. Judgment of March 29, 2006. Series C No. 146, para. 154; and Case of the Pueblo Bello Massacre v. Colombia. Merits, Reparations and Costs. Judgment of January 31, 2006. Series C No. 140, para. 111.

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244. The rights to life and to personal integrity have an essential nature in the Convention. According to its Article 27(2) these rights form part of the non-derogable nucleus of rights, because they cannot be suspended in cases of war, public danger or other threats.

245. Furthermore the Court has established that the right to life plays a fundamental role in the American Convention, since it is the essential assumption for the exercise of the other rights. The States have the obligation to guarantee the creation of the conditions required to ensure that there are no violations of this inalienable right and, in particular, the obligation to prevent violations by its agents. The observance of Article 4, in relation to Article 1(1) of the American Convention, presupposes not only that no person may be deprived of his life arbitrarily (negative obligation), but also requires the States to adopt all appropriate measures to protect and preserve the right to life (positive obligation), [FN262] pursuant to the obligation to ensure to all persons subject to its jurisdiction the full and free exercise of the rights. [FN263]

[FN262] Cf. Case of the "Street Children" (Villagrán Morales et al.) v. Guatemala, supra note 31, para. 144; Case of the Miguel Castro Castro Prison v. Peru, supra note 248, para. 237, and Case of Vargas Areco v. Paraguay. Merits, Reparations and Costs. Judgment of September 26, 2006. Series C No. 155, para. 75.
[FN263] Cf. Case of the Pueblo Bello Massacre v. Colombia, supra note 261, para. 120; Case of the Miguel Castro Castro Prison v. Peru, supra note 248, para. 237, and Case of Vargas Areco v. Paraguay, supra note 262, para. 75.

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246. With regard to the obligation to ensure the right recognized in Article 5 of the American Convention, this entails the State's duty to prevent and investigate possible acts of torture or other cruel, inhuman or degrading treatment. In this regard, the Tribunal has indicated that:

In the light of the general obligation to guarantee all persons under their jurisdiction the human rights enshrined in the Convention, established in Article 1(1) of the same, along with the right to humane treatment pursuant to Article 5 (Right to Humane Treatment) of said treaty, there is a [S]tate obligation to start ex officio and immediately an effective investigation that allows it to identify, prosecute, and punish the responsible parties, when there is an accusation or well-grounded reason to believe that an act of torture has been committed. [FN264]

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[FN264] Case of the Miguel Castro Castro Prison v. Peru, supra note 248, para. 345; Case of Vargas Areco v. Paraguay, supra note 262, para. 79, and Case of Bueno Alves v. Argentina. Merits, Reparations and Costs. Judgment of May 11, 2007. Series C No. 164, para. 89.
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247. Regarding Article 7(1) of the Convention, this Court has stated that, in general, it embodies the right to personal liberty and security, and that the other paragraphs of Article 7 recognize different guarantees that must be given when depriving someone of their liberty. This recognizes that domestic laws usually affect the right to liberty negatively, by allowing liberty to be deprived or restricted. Therefore, liberty is always the rule and the limitation or restriction is always the exception. [FN265] Consequently, the State must prevent the liberty of the individual being violated by the actions of public officials and private third parties, and must also investigate and punish acts that violate this right.

[FN265] Cf. Case of Chaparro Álvarez and Lapo Íñiguez. v. Ecuador. Preliminary Objection, Merits, Reparations and Costs. Judgment of November 21, 2007. Series C No. 170, para. 53.
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248. The Tribunal must now analyze whether the State took adequate steps to prevent the disappearance, abuses and death suffered by the three victims, and whether it investigated these facts with due diligence. In other words, whether it complied with the obligation to guarantee Articles 4, 5 and 7 of the American Convention, in relation to Article 1(1) thereof and Article 7 of the Convention of Belém do Pará, which complements the international corpus juris as regards the prevention and punishment of violence against women, [FN266] and whether it allowed access to justice to the next of kin of the three victims, as stipulated in Articles 8(1) and 25(1) of the American Convention, in relation to Articles 1(1) and 2 thereof.

[FN266] Cf. Case of the Miguel Castro Castro Prison v. Peru, supra note 248, para. 276.

4.2.1. Obligation of prevention in relation to the right to personal liberty, to personal integrity and to life of the victims

249. The Commission argued that the State "did not adopt reasonable measures to protect the life and prevent the murders" of the victims "although it was aware of the imminent risk that they would be murdered, as they had been reported as missing, as of the date of the facts." Similarly, it indicated that the information provided by the State during the procedures before it, "does not indicate any implementation of norms and practices aimed at guaranteeing that there would be an immediate search order after the missing person reports were received, or that there were any sanctions for the State officials' deficient response to the reports."

250. The representatives indicated that "at the time the victims disappeared, the Mexican authorities were aware that there was a real and immediate risk to their life," "because the cases

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described here form part of the pattern of violence against women and girls, and the State did not exercise due diligence by taking the necessary measures to avoid it."

251. The State argued that it had "complied with its obligations of prevention, investigation and punishment in each case."

252. The Court has established that the obligation of prevention encompasses all those measures of a legal, political, administrative and cultural nature that ensure the safeguard of human rights, and that any possible violation of these rights is considered and treated as an unlawful act, which, as such, may result in the punishment of the person who commits it, as well as the obligation to compensate the victims for the harmful consequences. It is also clear that the obligation to prevent is one of means or conduct, and failure to comply with it is not proved merely because the right has been violated. [FN267]

[FN267] Cf. Case of Velásquez Rodríguez v. Honduras. Merits, supra note 257, para. 166; Case of Perozo et al. v. Venezuela, supra note 22, para. 149, and Case of Anzualdo Castro v. Peru, supra note 30, para. 63.

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253. The Convention of Belém do Pará defines violence against women (supra para. 226) and its Article 7(b) obliges the States Parties to use due diligence to prevent, punish and eliminate this violence.

254. Since 1992, CEDAW established that "States may also be responsible for private acts if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence, and for providing compensation." [FN268] The 1993 Declaration on the Elimination of Violence against Women of the General Assembly of the United Nations urged the States to "[e]xercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons" [FN269] and so did the Platform for Action of the Beijing World Conference on Women. [FN270] In 2006, the U.N. Special Rapporteur on violence against women stated that "[b]ased on practice and the opinio juris […] it may be concluded that there is a norm of customary international law that obliges States to prevent and respond with due diligence to acts of violence against women." [FN271]

[FN268] Cf. CEDAW, General recommendation 19: Violence against women, 11° session, 1992, U.N. Doc. HRI\GEN\1\Rev.1 at 84 (1994), para. 9.

[FN269] Cf. United Nations, Declaration on the Elimination of Violence against Women. General Assembly resolution 48/104 of 20 December 1993. A/RES/48/104, February 23, 1994, Article 4.c.

[FN270] United Nations, Report of the Fourth World Conference on Women, Beijing, September 4 to 15, 1995, Beijing Declaration and Platform for Action approved at the 16° plenary session held on September 15, 1995. A/CONF.177/20/Rev.1, para. 124 b.

[FN271] Report of the Special Rapporteur on violence against women, supra note 64.

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255. In the case of Maria Da Penha v. Brazil (2000), presented by a victim of domestic violence, the Inter-American Commission applied the Convention of Belém do Pará for the first time and decided that the State had violated its obligation to exercise due diligence to prevent, punish and eliminate domestic violence, by failing to convict and punish the perpetrator for 15 years, despite all the complaints opportunely submitted. [FN272] The Commission concluded that, since the violation was part of a "general pattern of negligence and lack of effectiveness of the State," not only had the obligation to prosecute and convict been violated, but also the obligation to prevent this degrading practice. [FN273]

[FN272] IACHR, Case 12,051, Report No. 54/01, Maria Da Penha Maia Fernandes v. Brazil, Annual Report, 2000, OEA/Ser.L/V.II.111 Doc.20 rev. (2000).
[FN273] IACHR, Maria Da Penha Maia Fernandes v. Brazil, supra note 272, para. 56. CEDAW has ruled similarly. Thus, in the case of A.T. v. Hungary (2005), it determined that the State had not complied with the obligations established in the Convention to prevent the violence against the victim and to protect her. In particular, it stated that it was "particularly concerned that no specific legislation has been enacted to combat domestic violence and sexual harassment and that no protection or exclusion orders or shelters exist for the immediate protection of women victims of domestic violence" (Cf. CEDAW, Communication No. 2/2003, Ms. A. T. v. Hungary, 32° session, January 26, 2005 para. 9.3). Similarly, in the case of Yildirim v. Austria, in which the victim was murdered by her husband, CEDAW found that the State had failed in its obligation of due diligence because it had not detained him (Cf. CEDAW, Communication No. 6/2005, Fatma Yildirim v. Austria, 39° session, 23 July to 10 August 2007, para. 12.1.4 and 12.1.5).
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256. In addition, the U.N. Special Rapporteur on violence against women has provided guidelines on the measures that States should take to comply with their international obligations of due diligence with regard to prevention, namely: ratification of the international human rights instruments; constitutional guarantees on equality for women; existence of national legislation and administrative sanctions providing adequate redress for women victims of violence; executive policies or plans of action that attempt to deal with the question of violence against women; sensitization of the criminal justice system and the police to gender issues; availability and accessibility of support services; existence of measures in the field of education and the media to raise awareness and modify practices that discriminate against women, and collection of data and statistics on violence against women. [FN274]

[FN274] Cf. United Nations, Violence against women in the family: Report of the Special Rapporteur on violence against women, its causes and consequences, Radhika Coomaraswamy, submitted in accordance with Commission on Human Rights resolution 1995/85, UN Doc. E/CN.4/1999/68, 10 March 1999, para. 25.
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257. Furthermore, according to a report of the U.N. Secretary-General:

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It is good practice to make the physical environment safer for women and community safety audits have been used to identify dangerous locations, discuss women's fears and obtain women's recommendations for improving their safety. Prevention of violence against women should be an explicit element in urban and rural planning and in the design of buildings and residential dwellings. Improving the safety of public transport and routes travelled by women, such as to schools and educational institutions or to wells, fields and factories, is part of prevention work. [FN275]

[FN275] United Nations, General Assembly, In-depth study on all forms of violence against women. Report of the Secretary-General, Sixty-first session, A/61/122/Add.1, July 6, 2006, para. 352.

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258. The foregoing reveals that States should adopt comprehensive measures to comply with due diligence in cases of violence against women. In particular, they should have an appropriate legal framework for protection that is enforced effectively, and prevention policies and practices that allow effective measures to be taken in response to the respective complaints. The prevention strategy should also be comprehensive; in other words, it should prevent the risk factors and, at the same time, strengthen the institutions that can provide an effective response in cases of violence against women. Furthermore, the State should adopt preventive measures in specific cases in which it is evident that certain women and girls may be victims of violence. This should take into account that, in cases of violence against women, the States also have the general obligation established in the American Convention, an obligation reinforced since the Convention of Belém do Pará came into force. The Court will now examine the measures adopted by the State prior to the facts of this case to comply with its obligation of prevention.

259. The State argued that "based on the context of violence in Ciudad Juárez acknowledged by the government authorities, all measures considered necessary to avoid the repetition of acts of violence against women have been and continue to be adopted." The State also indicated that it had provided evidence of "improvements in institutional infrastructure and capacity in order to ensure that investigations are effective in cases of violence against women, and to provide constant judicial monitoring," as well as of "numerous programs designed to eradicate discriminatory socio-cultural patterns against women, such as comprehensive prevention policies, programs to provide services to victims of crime, civil society participation, and training for public officials."

260. The Commission indicated that there was an "absence of effective State measures regarding the disappearance and subsequent death of the victims" and that "at the time the facts occurred, the State had not adopted the policies or measures necessary for guaranteeing the effective prevention, investigation and punishment of violent acts directed against women."

261. The representatives alleged that, in general, "none of the limited measures taken by the authorities from 1993 to 2001, or the financial resources allocated, can be considered effective measures to prevent violence against women and girls."

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262. From the evidence provided to the Tribunal, it is clear, firstly, that Mexico created the Office of the Special Prosecutor for the Investigation of the Murders of Women in Ciudad Juárez, within the Office of the Attorney General of Chihuahua (hereinafter also referred to as the "FEIHM" due to its name in Spanish) in 1998, [FN276] in response to CNDH Recommendation No. 44/98. [FN277] According to the State, the Special Prosecutor's Office was established as "an initial response to the phenomenon of violence against women in Ciudad Juárez."

[FN276] Cf. Report on Mexico produced by CEDAW, supra note 64, folio 1922; CNDH, Informe Especial, supra note 66, folio 2168, and Amnesty International, Intolerable killings, supra note 64, folio 2265.
[FN277] Cf. Report on Mexico produced by CEDAW, supra note 64, folio 1963. According to the CNDH, this Prosecutor's Office was created because "the investigations into all the murders that occurred in Ciudad Juárez, Chihuahua, from 1993 to 1996, were being conducted by the Homicide Unit of the Judicial Police of that state" and according to Amnesty International, "it was a request that the local organizations had been making since 1996, owing to the inability of the [Office of the Attorney General of the state of Chihuahua] to respond to the situation" (Cf. CNDH, Informe Especial, supra note 66, folio 2168 and Amnesty International, Intolerable killings, supra note 64, folio 2278).

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263. In this regard, the 2003 report of the IACHR Rapporteur indicated that, according to information provided by authorities of the State of Chihuahua during her 2002 visit, this Prosecutor's Office "has initiated the steps necessary to promptly and properly respond" to the murders; it comprised agents "with specialized training"; it had been "provided the technical capacity to better respond to these crimes"; various information systems had been installed and "each homicide was assigned to a particular group of agents responsible for the investigation from start to finish in order to avoid the problem of possible lost or missing information, and ensure the integrity of the investigation." [FN278]

[FN278] Cf. IACHR, The Situation of the Rights of Women in Ciudad Juárez, supra note 64, folio 1752.

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264. Regarding the results achieved by the FEIHM, the Court underscores the State's answer to the 2005 CEDAW Report in which it indicated that "its establishment led to an investigation process that has had promising results and has made it possible to identify, prosecute and punish the perpetrators in 45.72 per cent of the cases." [FN279] In this regard, the Tribunal observes that it has previously been established (supra para. 159) that, in 2005, around 38% of the cases of murders of women in Ciudad Juárez concluded with convictions or sanctions. Secondly, the Court observes that in the same State answer to the CEDAW Report, it explained that the figure of 45.72% of judgments refers to non-sexual crimes, while of the 92 sexual crimes documented, judgments had been rendered in only 4 cases [FN280] (supra para. 161).

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[FN279] Cf. Report on Mexico produced by CEDAW, supra note 64, folio 1963.
[FN280] Cf. Office of the Special Prosecutor for the Investigation of Crimes related to the Murders of Women in Ciudad Juárez, Informe Final, supra note 87, folios 14617 to 14651.
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265. The FEIHM had several special prosecutors, [FN281] most of whom only remained there for a few months, and they had insufficient information to make a comprehensive analysis of the homicides and disappearances that had occurred in Ciudad Juárez, and of the impact of the FEIHM on this situation. [FN282]

[FN281] Cf. Report on Mexico produced by CEDAW, supra note 64, folio 1937 and CNDH, Informe Especial, supra note 66, folio 2235.
[FN282] Cf. CNDH, Informe Especial, supra note 66, folio 2235 and Amnesty International, Intolerable killings, supra note 64, folio 2278.
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266. Lastly, according to the 2003 Report of the IACHR Rapporteur, "[t]he information available reflects that efforts made to improve the response to these crimes through the Office of the Special Prosecutor have resulted in some improvements" and that "[c]ertainly the situation is not as grave as in the first years in which bags of bones were sometimes left as the only record in the aftermath of a killing." [FN283]

[FN283] IACHR, The Situation of the Rights of Women in Ciudad Juárez, supra note 64, folio 1752.
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267. The case file before the Court also shows that on June 27, 1998, the law on the state's public security system was published in the Official Gazette of the state of Chihuahua; [FN284] nevertheless, the State did not provide any arguments or evidence of how that measure contributed to prevent, as alleged, "a repetition of the acts of violence against women."

[FN284] Cf. Law on the State Public Security System issued by the H. State Congress, published in the State's Official Gazette No. 51 of June 27, 1998, and amended in 2002, 2004 and 2005 (case file of attachments to the answer to the application, volume XLII, attachment 72, folios 15326 to 15364).
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268. The Tribunal takes note that, according to the Organic Law of the Executive Branch of the state of Chihuahua amended in 1998 and in force in 2001, it is the function of the state Attorney-General's Office "[t]o order appropriate measures to combat and eradicate violence

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against women and children, by implementing the pertinent institutional mechanisms," [FN285] as well as "[t]o provide the protection of the rights of the victims established by law." [FN286]

[FN285] Cf. Article 35, fraction V of the Organic Law of the Executive Branch of the state of Chihuahua, published in Official Gazette No. 79 of October 1, 1986, latest amendment POE 2005.01(1)9/No. 6.
[FN286] Cf. Article 35, fraction VI of the Organic Law of the Executive Branch of the state of Chihuahua, supra note 285.

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269. The Court also observes that, at the federal level, the National Women's Institute (hereinafter "INMUJERES") was created, under a law published in the Official Gazette on January 12, 2001. [FN287] This law established that the general purpose of INMUJERES is "to promote and encourage conditions that prevent gender-based discrimination, and facilitate equal opportunities and treatment for both sexes; and the full exercise of the rights of women and their equal participation in the political, cultural, economic and social life of the country." [FN288] Nevertheless, the INMUJERES actions and programs described in the case file are subsequent to 2001, the year in which the victims were killed; consequently, they are not applicable to this case.

[FN287] Cf. Law on the National Women's Institute (case file of attachments to the answer to the application, volume XLIII, attachment 86, folios 16010 to 16019).
[FN288] Article 4 of the Law on the National Women's Institute, supra note 287, folio 16010.

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270. Mexico also referred to the creation in 1998 of a pilot program entitled "Program to provide Services to Victims of Crime" and indicated that, in 2000, as part of this program, "a database was created to facilitate tracing and locating disappeared persons." However, the Court observes that it has no pertinent information in the case file for assessing these initiatives.

271. In addition, the State forwarded as evidence a report of the Office of the Attorney General for the state of Chihuahua presented to the Inter-American Commission in March 2002 that described a series of actions adopted by the state government. Mexico did not forward any additional evidence about the different measures indicated in this document. Furthermore, the State did not provide additional information on these actions in its pleadings, [FN289] or give specific information such as the date and places in which they were implemented, or their results. Accordingly, the Tribunal is unable to assess them.

[FN289] The State mentioned the Zero Tolerance Program and Operation Crucero in their pleadings, but did not explain the achievements or results of these programs (Cf. brief in answer to the application, merits case file, volume III, folio 1031). The Court observes that, in said document of the Attorney General's Office, supra para. 270, the State mentioned that the crimes

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decreased as a result of these programs, but did not provide further explanations or additional evidence in this regard.
Cf. IACHR, The Situation of the Rights of Women in Ciudad Juárez, supra note 64.
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272. The Court takes note that the 2003 reports of the IACHR Rapporteur and of Amnesty International refer to a series of measures taken by the State, which included expanding street lights, paving roads, increasing security in high-risk areas, improving the selection of bus drivers who transport female workers at all hours, programs to ensure stricter control of alcohol consumption, and the installation of two emergency telephone lines. [FN290] However, these reports do not give the dates on which these measures were taken, so that the Tribunal is unable to assess them as prevention measures adopted by Mexico prior 2001.

[FN290] Cf. IACHR, The Situation of the Rights of Women in Ciudad Juárez, supra note 64, folio 1820 and Amnesty International, Intolerable killings, supra note 64, folio 2285.
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273. The Court observes that national and international reports agree that the prevention of the murder of women in Ciudad Juárez, and also the response to these killings, has been ineffective and insufficient. [FN291] According to the 2005 CEDAW Report, it was only in 2003, primarily as a follow-up to the report of the IACHR Rapporteur, "that people began to face squarely the need for a comprehensive and integrated program with distinct and complementary areas of intervention." CEDAW concluded that "[w]hile there is now a greater political will, especially on the part of Federal agencies […], it must be said that the policies adopted and the measures taken since 1993 in the areas of prevention, investigation and punishment […] have been ineffective and have fostered a climate of impunity […]." [FN292]

[FN291] Cf. IACHR, The Situation of the Rights of Women in Ciudad Juárez, supra note 64, folio 1749; Report on Mexico produced by CEDAW, supra note 64, folio 1924, and CNDH, Recomendación 44/1998, supra note 72, folio 2155.
[FN292] Report on Mexico produced by CEDAW, supra note 64, folios 1938 and 1924.
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274. Since 1998, the State was warned publicly of the problem that existed in Ciudad Juárez, in CNDH Recommendation No. 44. In this recommendation, the CNDH stated that it had received allegations:

That allow it to indicate that the state authorities have committed a culpable omission by observing the growth of this social phenomenon and failing to deal with, monitor or eradicate it; because, not only did they fail to foresee or prevent it, but they also failed to take every possible precaution; and based on the numbers of women murdered during 1998, it is a trend which suggests that, unfortunately, the numbers [will] be higher than in previous years if the necessary measures are not taken immediately to prevent and suppress it. [FN293]

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[FN293] CNDH, Recomendación 44/1998, supra note 72, folio 2155.
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275. In 1999, the U.N. Special Rapporteur on Extrajudicial Executions visited Ciudad Juárez, and met with state authorities. In her report, she noted that “the deliberate inaction of the Government to protect the lives of its citizens because of their sex had generated a sense of insecurity amongst many of the women living in Ciudad Juárez. At the same time, it had indirectly ensured that perpetrators would enjoy impunity for such crimes.” [FN294]

[FN294] Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, supra note 73, folio 2053.
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276. In 2003, the CNDH determined that “more than five years after having issued [Recommendation No. 44], the social phenomenon has not been controlled; to the contrary, the crime rate against women who live in or travel through the municipality of Juárez, Chihuahua, has continued to rise.” Regarding the specific recommendations made by the CNDH concerning collaboration agreements with other Attorney General’s Offices and police forces, the establishment of public security programs and training for police forces, the CNDH concluded that “[t]he attestations forwarded […] allow us to observe the insufficiency of the measures taken.” [FN295]

[FN295] CNDH, Informe Especial, supra note 66, folios 2224 and 2226.
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277. According to the facts of this case, the victims González, Ramos and Herrera were young women of 20, 17 and 15 years of age respectively, all of them from a humble background, one a student and the other two workers. They left their homes one day and their bodies were found days or weeks later in a cotton field with signs of sexual abuse and other ill-treatment. In the days between their disappearance and the discovery of their bodies, their mothers and next of kin approached the authorities looking for a response, but were met with value judgments concerning the conduct of the victims and with no concrete action designed to find them alive, apart from the reception of statements.

278. The Tribunal has considered proven and the State has acknowledged that, in 2001, Ciudad Juárez experienced a powerful wave of violence against women. The facts of the case reveal significant parallels with the proven context.

279. Even though the State was fully aware of the danger faced by these women of being subjected to violence, it has not shown that, prior to November 2001, it had adopted effective measures of prevention that would have reduced the risk factors for the women. Although the obligation of prevention is one of means and not of results (supra para. 251), the State has not demonstrated that the creation of the FEIHM and some additions to its legislative framework,

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although necessary and revealing a commitment by the State, were sufficient and effective to prevent the serious manifestations of violence against women that occurred in Ciudad Juárez at the time of this case.

280. Nevertheless, according to the Court's jurisprudence, it is evident that a State cannot be held responsible for every human rights violation committed between private individuals within its jurisdiction. Indeed, a State's obligation of guarantee under the Convention does not imply its unlimited responsibility for any act or deed of private individuals, because its obligation to adopt measures of prevention and protection for private individuals in their relations with each other is conditional on its awareness of a situation of real and imminent danger for a specific individual or group of individuals and the reasonable possibility of preventing or avoiding that danger. In other words, even though the juridical consequence of an act or omission of a private individual is the violation of certain human rights of another private individual, this cannot be attributed automatically to the State, because the specific circumstances of the case and the discharge of such obligation to guarantee must be taken into account. [FN296]

[FN296] Cf. Case of the Pueblo Bello Massacre v. Colombia, supra note 261, para. 123; Case of the Sawhoyamaxa Indigenous Community v. Paraguay, supra note 261, para. 155, and Case of Valle Jaramillo et al. v. Colombia, supra note 49, para. 78. See also ECHR, Case of Kiliç v. Turkey, Judgment of 28 March 2000, paras. 62 and 63, and ECHR, Case of Osman v. the United Kingdom, Judgment of 28 October 1998, paras. 115 and 116.

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281. In this case, there are two crucial moments in which the obligation of prevention must be examined. The first is prior to the disappearance of the victims and the second is before the discovery of their bodies.

282. Regarding the first moment – before the disappearance of the victims – the Tribunal finds that the failure to prevent the disappearance does not per se result in the State's international responsibility because, even though the State was aware of the situation of risk for women in Ciudad Juárez, it has not been established that it knew of a real and imminent danger for the victims in this case. Even though the context of this case and the State's international obligations impose on it a greater responsibility with regard to the protection of women in Ciudad Juárez, who are in a vulnerable situation, particularly young women from humble backgrounds, these factors do not impose unlimited responsibility for any unlawful act against such women. Moreover, the Court can only note that the absence of a general policy which could have been initiated at least in 1998 – when the CNDH warned of the pattern of violence against women in Ciudad Juárez – is a failure of the State to comply in general with its obligation of prevention.

283. With regard to the second moment – before the discovery of the bodies – given the context of the case, the State was aware that there was a real and imminent risk that the victims would be sexually abused, subjected to ill-treatment and killed. The Tribunal finds that, in this context, an obligation of strict due diligence arises in regard to reports of missing women, with respect to search operations during the first hours and days. Since this obligation of means is more rigorous, it requires that exhaustive search activities be conducted. Above all, it is essential

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that police authorities, prosecutors and judicial officials take prompt immediate action by ordering, without delay, the necessary measures to determine the whereabouts of the victims or the place where they may have been retained. Adequate procedures should exist for reporting disappearances, which should result in an immediate effective investigation. The authorities should presume that the disappeared person has been deprived of liberty and is still alive until there is no longer any uncertainty about her fate.

284. Mexico did not prove that it had adopted reasonable measures, according to the circumstances surrounding these cases, to find the victims alive. The State did not act promptly during the first hours and days following the reports of the disappearances, losing valuable time. In the period between the reports and the discovery of the victims' bodies, the State merely carried out formalities and took statements that, although important, lost their value when they failed to lead to specific search actions. In addition, the attitude of the officials towards the victims' next of kin, suggesting that the missing persons' reports should not be dealt with urgently and immediately, leads the Court to conclude reasonably that there were unjustified delays following the filing of these reports. The foregoing reveals that the State did not act with the required due diligence to prevent the death and abuse suffered by the victims adequately and did not act, as could reasonably be expected, in accordance with the circumstances of the case, to end their deprivation of liberty. This failure to comply with the obligation to guarantee is particularly serious owing to the context of which the State was aware – which placed women in a particularly vulnerable situation – and of the even greater obligations imposed in cases of violence against women by Article 7(b) of the Convention of Belém do Pará.

285. In addition, the Tribunal finds that the State did not prove that it had adopted norms or implemented the necessary measures, pursuant to Article 2 of the American Convention and Article 7(c) of the Convention of Belém do Pará, that would have allowed the authorities to provide an immediate and effective response to the reports of disappearance and to adequately prevent the violence against women. Furthermore, it did not prove that it had adopted norms or taken measures to ensure that the officials in charge of receiving the missing reports had the capacity and the sensitivity to understand the seriousness of the phenomenon of violence against women and the willingness to act immediately.

286. Based on the foregoing, the Court finds that the State violated the rights to life, personal integrity and personal liberty recognized in Articles 4(1), 5(1), 5(2) and 7(1) of the American Convention, in relation to the general obligation to guarantee contained in Article 1(1) and the obligation to adopt domestic legal provisions contained in Article 2 thereof, as well as the obligations established in Article 7(b) and 7(c) of the Convention of Belém do Pará, to the detriment of Claudia Ivette González, Laura Berenice Ramos Monárrez and Esmeralda Herrera Monreal.

4.2.2. Obligation to investigate the facts effectively, in accordance with Articles 8(1) and 25(1) of the Convention, derived from the obligation to guarantee the rights to life, personal integrity and personal liberty

287. The obligation to investigate cases of the violation of these rights arises from the general obligation to guarantee the rights to life, personal integrity and personal liberty: in other words,

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Article 1(1) of the Convention in conjunction with the substantive right that must be ensured, protected and guaranteed. [FN297] In addition, Mexico must comply with the provisions of Article 7(b) and 7(c) of the Convention of Belém do Pará, which establishes the obligation to act with due diligence, [FN298] and to adopt the necessary laws to investigate and to punish violence against women.

[FN297] Cf. Case of the Pueblo Bello Massacre v. Colombia, supra note 261, para. 142; Case of Heliodoro Portugal v. Panamá. Preliminary Objections, Merits, Reparations and Costs. Judgment of August 12, 2008. Series C No. 186, para. 115, and Case of Perozo et al. v. Venezuela, supra note 22, para. 298.
[FN298] Cf. Case of the Miguel Castro Castro Prison v. Peru, supra note 248, para. 344.

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288. In its judgment on merits in the case of Velásquez Rodríguez v. Honduras, the Court established that, pursuant to the obligation to guarantee:

The State is obligated to investigate every situation involving a violation of the rights protected by the Convention. If the State apparatus acts in such a way that the violation goes unpunished and the victim's full enjoyment of such rights is not restored as soon as possible, the State has failed to comply with its duty to ensure the free and full exercise of those rights to the persons within its jurisdiction. The same is true when the State allows private persons or groups to act freely and with impunity to the detriment of the rights recognized by the Convention. [FN299]

[FN299] Case of Velásquez Rodríguez v. Honduras. Merits, supra note 257, para. 176, and Case of Kawas Fernández v. Honduras, supra note 190, para. 76.

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289. The duty to investigate is an obligation of means and not of results, which must be assumed by the State as an inherent legal obligation and not as a mere formality preordained to be ineffective. [FN300] The State's obligation to investigate must be complied with diligently in order to avoid impunity and the repetition of this type of act. In this regard, the Tribunal recalls that impunity encourages the repetition of human rights violations. [FN301]

[FN300] Cf. Case of Anzualdo Castro v. Peru, supra note 30, para. 123, and Case of Garibaldi v. Brazil, supra note 252, para. 113.
[FN301] Cf. Case of Anzualdo Castro v. Peru, supra note 30, para. 179, and Case of Garibaldi v. Brazil, supra note 252, para. 141.

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290. In light of this obligation, as soon as State authorities are aware of the fact, they should initiate, ex officio and without delay, a serious, impartial and effective investigation using all available legal means, aimed at determining the truth and the pursuit, capture, prosecution and

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eventual punishment of all the perpetrators of the facts, especially when public officials are or may be involved. [FN302]

[FN302] Cf. Case of the Pueblo Bello Massacre v. Colombia, supra note 261, para. 143; Case of Heliodoro Portugal v. Panamá, supra note 297, para. 144, and Case of Valle Jaramillo et al. v. Colombia, supra note 49, para. 101.
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291. Moreover, the Court has noted that this obligation remains "whatsoever the agent to which the violation may eventually be attributed, even individuals, because, if their acts are not investigated genuinely, they would be, to some extent, assisted by the public authorities, which would entail the State's international responsibility." [FN303]

[FN303] Case of the Pueblo Bello Massacre v. Colombia, supra note 261, para. 145, and Case of Kawas Fernández v. Honduras, supra note 190, para. 78.
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292. In this regard, within the framework of the obligation to protect the right to life, the European Court of Human Rights has developed the concept of the "procedural obligation" to carry out an effective official investigation in cases of the violation of that right. [FN304] The Inter-American Court has also applied this concept in several cases. [FN305]

[FN304] Cf. ECHR, Ergi v. Turkey, Judgment of 28.07(1)998, Reports of Judgments, n. 81, paras. 85-86, and ECHR, Akkoç v. Turkey, Judgment of 10 October 2000, paras. 77 to 99; ECHR, Kiliç v. Turkey, Judgment of 28 March 2000, paras. 78 to 83.
[FN305] Cf. Case of Juan Humberto Sánchez v. Honduras. Preliminary Objection, Merits, Reparations and Costs. Judgment of June 7, 2003. Series C No. 99, para. 112; Case of Valle Jaramillo et al. v. Colombia, supra note 49, para. 97, and Case of Garibaldi v. Brazil, supra note 252, para. 23.
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293. The Tribunal finds that, following the standards established by this Tribunal (supra paras. 287 to 291), the obligation to investigate effectively has a wider scope when dealing with the case of a woman who is killed or, ill-treated or, whose personal liberty is affected within the framework of a general context of violence against women. Similarly, the European Court has said that where an "attack is racially motivated, it is particularly important that the investigation is pursued with vigor and impartiality, having regard to the need to reassert continuously society's condemnation of racism and to maintain the confidence of minorities in the ability of the authorities to protect them from the threat of racist violence." [FN306] This criterion is wholly applicable when examining the scope of the obligation of due diligence in the investigation of cases of gender-based violence.

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[FN306] Cf. ECHR, Case of Angelova and Iliev v. Bulgaria, Judgment 26 July 2007, para. 98.
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294. In order to determine whether the procedural obligation to protect the rights to life, personal integrity and personal liberty by means of a serious investigation into what happened was fully complied with in this case, the Tribunal must examine the different measures taken by the State after the bodies were found, as well as the domestic procedures to elucidate what occurred and to identify those responsible for the violations perpetrated against the victims.

295. The Court will analyze the dispute between the parties regarding the alleged irregularities concerning: (1) custody of the crime scene, collection and handling of evidence, autopsies, and identification and return of the victims' remains; (2) actions taken against those presumed to be responsible and alleged 'fabrication' of suspects; (3) unjustified delay and absence of substantial progress in the investigations; (4) fragmentation of the investigations; (5) failure to sanction public officials involved in the irregularities, and (6) denial of access to the case file and delays or refusal of copies of this file.

4.2.2.1. Alleged irregularities in custody of the crime scene, collection and handling of evidence, autopsies, and identification and return of the victims' remains

296. As previously indicated (supra para. 20), the State mentioned two stages of the investigations, the first from 2001 to 2003 and the second from 2004 to 2009. The State acknowledged its responsibility for some irregularities during the first stage, but alleged that, during the second stage, these deficiencies were corrected and it had promoted the "Human Identity Program", with the participation of the EAAF.

297. The Court observes that on May 1, 2005, the Chihuahua Attorney General's Office hired the EAAF to assist in the "identification of the remains of unidentified women in the cities of Juárez and Chihuahua," and also in "the review of cases in which the victims' next of kin have expressed doubts about the identity of the remains they received." [FN307] Based on the conclusions reached by the EAAF concerning this case, the evidence in the case file, and the State's acknowledgement, the Tribunal will refer to the irregularities that occurred in (a) the discovery of the bodies, the custody of the crime scene, and the collection and handling of evidence; (b) the manner in which the autopsies were performed, and (c) the DNA testing, identification and return of the remains.

[FN307] Cf. Contract for professional services signed by the Office of the Attorney General for the state of Chihuahua and the Argentine Forensic Anthropology Team on May 1, 2005 (case file of attachments to the answer to the application, volume XLV, attachment 136, folios 16581 to 16586).

(a) Irregularities in elaboration of the report on the discovery of the bodies, preservation of the crime scene, and collection and handling of evidence

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298. The Commission alleged that "the record of the removal of the bodies does not describe the methods used to collect and preserve evidence" and that the "authorities associated some of the evidence found […] with certain bodies […] because of its proximity to the bodies, although it was all found over an extensive area." The representatives alleged that the authorities did not search the place adequately. They added that from all the "objects and evidence observed on the site, no greater results than the identification of some of their blood types were obtained, without subsequent comparison with other elements and with the bodies." Furthermore, both the Commission and the representatives stated that there was no "official document recording where the evidence was held" or the names of officials responsible for it. The representatives added that "[n]o order or sequence was followed in order to identify the evidence found," which resulted "in contradictions and inconsistencies in the results of the expert appraisals."

299. The irregularities acknowledged by the State during the first stage of the investigations included "[t]he inappropriate preservation of the site of the discovery," the failure to adopt "necessary measures" to ensure that the scene of the crime "was not contaminated," "the fact that the evidence collected was not processed exhaustively," and that "the items of evidence were not appraised by experts."

300. This Court has established that the obligation to investigate a death means that the effort to determine the truth with all diligence must be evident as of the very first procedures. [FN308] In this regard, the Tribunal has defined the guiding principles to be observed in an investigation into a violent death. The State authorities who conduct an investigation of this type must try, at the very least, inter alia: (i) to identify the victim; (ii) to recover and preserve the probative material related to the death in order to assist in any potential criminal investigation of those responsible; (iii) to identify possible witnesses and obtain their statements in relation to the death under investigation; (iv) to determine the cause, manner, place and time of death, as well as any pattern or practice that could have caused the death, and (v) to distinguish between natural death, accidental death, suicide and homicide. In addition, the scene of the crime must be searched exhaustively, and autopsies and tests of the human remains must be performed rigorously by competent professionals using the most appropriate procedures. [FN309]

[FN308] Cf. Case of Servellón García et al. v. Honduras. Merits, Reparations and Costs. Judgment of September 21, 2006. Series C No. 152, para. 120; Case of the Miguel Castro Castro Prison v. Peru, supra note 248, para. 383, and Case of Zambrano Vélez et al. v. Ecuador. Merits, Reparations and Costs. Judgment of July 4, 2007. Series C No. 166, para. 121.

[FN309] Cf. Case of Juan Humberto Sánchez v. Honduras, supra note 305, para. 127; Case of Escué Zapata v. Colombia. Merits, Reparations and Costs. Judgment of July 4, 2007. Series C No. 165, para. 106, and Case of Kawas Fernández v. Honduras, supra note 190, para. 102.

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301. In addition, the international standards indicate that, regarding the crime scene, the investigators must, at the very least: photograph the scene and any other physical evidence, and the body as it was found and after it has been moved; gather and conserve the samples of blood, hair, fibers, threads and other clues; examine the area to look for footprints or any other trace that could be used as evidence, and prepare a detailed report with any observations regarding the

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scene, the measures taken by the investigators, and the assigned storage for all the evidence collected. [FN310] The obligations established by the Minnesota Protocol establish that, when investigating a crime scene, the area around the body must be closed off, and entry into it prohibited, except for the investigator and his team. [FN311]

[FN310] Cf. United Nations Manual on the Effective Prevention and Investigation of Extralegal, Arbitrary and Summary Executions, Doc. E/ST/CSDHA/.12 (1991).
[FN311] Cf. Manual on the Effective Prevention and Investigation of Extralegal Executions, supra note 310.

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302. In this case, the bodies of the three victims were removed officially on November 6, 2001. The information in the case file before the Court indicates that a telephone call from a “construction worker who was taking a short cut across the field” [FN312] raised the alert about the presence of the bodies. However, neither this information, nor any other related to the circumstances of the discovery appears in the respective judicial report, which only states that an official of the Public Prosecutor’s Office initiated the investigation based on a telephone call from the radio operator of the state’s Judicial Police. [FN313]

[FN312] Cf. testimonial statement given before notary public by Mr. Máynez Grijalva on April 21, 2009 (merits case file, volume XIII, folio 3845).
[FN313] Cf. report issued by the official of the Public Prosecutor’s Office attached to the Office of the Special Prosecutor for the Investigation of the Murders of Women in Ciudad Juárez on November 6, 2001 (case file of attachments to the pleadings and motions brief, volume XIV, attachment 3, folio 4742) and decision issued by the Fourth Criminal Chamber of the Supreme Court of Justice of the state of Chihuahua on July 14, 2005 (case file of attachments to the application, volume IX, attachment 83, folio 3431).

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303. The November 6 Public Prosecutor’s affidavit listed a total of 26 items of evidence. [FN314] However, except for one item, these are not the items of evidence that appear in the official records of the removal of the three bodies, [FN315] each of which indicates different items of evidence, with no indication of where they were found, the relationship between them, and their relationship to the Public Prosecutor’s affidavit. Other items of evidence were found on November 7, 2001, when the official removal of the other five bodies was conducted (supra para. 209). However, the list of the evidence gathered on November 7 is the same as that drawn up on November 6. [FN316] In addition, the official records of the removal of the other five bodies also contain items of evidence that differ from the previous ones, [FN317] although the case file does not show where they were found, or the relationship between them and with the Public Prosecutor’s affidavit.

[FN314] Cf. affidavit concerning the place and the bodies, supra note 238, folio 2667.
[FN315] Cf. official record of the removal of a body, supra note 234.

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[FN316] Cf. list of evidence prepared by the Head of the Technical Office of Expert Services and Forensic Medicine on November 13, 2001 (case file of attachments to the application, volume IX, attachment 44, folios 2708, 2720 and 2721), and affidavit concerning the place and the bodies, supra note 238, folio 2667.
[FN317] Cf. official record of the removal of a body, supra note 234, folios 2710, 2712, 2714, 2716 and 2718.
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304. After the collection of evidence on November 6 and 7, the next of kin of the victims carried out two searches on February 24 and 25, 2002, to gather additional evidence at the site where the bodies were discovered. They found a significant number of items. The inventory of the evidence gathered includes clothes, nine shoes and eleven varied objects, including the license plate of a border vehicle and a provisional municipal license. Also included were hair, blood remains, clothes of possible victims, bits of plastic, different kinds of containers, samples of earth, and bones, among others. There is no indication of which officials were responsible for these items, where they were sent, or in what conditions they were conserved. [FN318] Some of this evidence was not analyzed for more than six years. Indeed, on November 22, 2007, while organizing boxes of evidence relating to the cases processed in Ciudad Juárez, a box with samples of the hair and bones of the victims was located, with no indication whatsoever about why this evidence was found in that place, and without any indication of the procedures established to protect this evidence; in other words, without the required chain of custody. [FN319]

[FN318] During these searches by the next of kin, they found the voter credentials and the employment credentials of Claudia Ivette of González (Cf. affidavit concerning the place and objects issued on February 24, 2002, by the official of the Public Prosecutor's Office attached to the Office of the Special Prosecutor for the Investigation of the Murders of Women, case file of attachments to the application, volume IX, attachment 63, folios 2923 and 2924); preliminary affidavit concerning the place and objects issued on February 25, 2002, by the official of the Public Prosecutor's Office attached to the Office of the Special Prosecutor for the Investigation of the Murders of Women, case file of attachments to the application, volume IX, attachment 64, folios 2927 and 2928), and testimony given by Mrs. Monárrez Salgado before the official of the Public Prosecutor's Office attached to the Office of the Internal Affairs Controller for the Northern Zone on July 23, 2006 (case file of attachments to the application volume IX, attachment 84, folios 3504 to 3507).
[FN319] Cf. testimony given by an expert witness in chemistry attached to the Technical Office of Expert Services and Forensic Medicine of Ciudad Juárez before the official of the Public Prosecutor's Office attached to the Joint Agency to Investigate the Murder of Women in Ciudad Juárez on March 15, 2008 (case file of attachments to the answer to the application, volume XXXVIII, attachment 50, folios 14072 to 14074).
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305. On this point, the United Nations Manual indicates that due diligence in the legal and medical investigation of a death requires maintaining the chain of custody of each item of forensic evidence. [FN320] This consists in keeping a precise written record, complemented, as

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applicable, by photographs and other graphic elements, to document the history of the item of evidence as it passes through the hands of the different investigators responsible for the case. The chain of custody can extend beyond the trial, sentencing and conviction of the accused; given that old evidence, duly preserved, could help exonerate someone who has been convicted erroneously. The exception to the foregoing is the positively identified remains of victims, which can be returned to their families for burial, on condition that they cannot be cremated and may be exhumed for new autopsies. [FN321]

[FN320] Cf. Manual on the Effective Prevention and Investigation of Extralegal Executions, supra note 310.
[FN321] Cf. statement made before notary public by expert witness Snow on April 17, 2009 (merits case file, volume XIV, folio 4225).
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306. The Court concludes that, in this case, irregularities occurred as regards: (i) the failure to identify with precision the circumstances of the discovery of the bodies; (ii) the negligible rigor in the inspection and preservation of the crime scene by the authorities; (iii) the improper handling of some of the evidence collected, and (iv) the methods used were inadequate to preserve the chain of custody.

307. In addition, the Tribunal observes that, this case is not the only one in which negligence in the collection of evidence has been reported (supra para. 150). Indeed, the Office of the Special Prosecutor for the Investigation of the Murders of Women in Ciudad Juárez indicated that between 1993 and 2005, frequently "the content of the expert appraisals, basically those of on-site criminology, did not correspond to the affidavits drawn up at the site of the facts by the official of the respective Public Prosecutor's Office." [FN322] Furthermore, there were numerous irregularities concerning preservation of the crime scene, [FN323] destruction of evidence, [FN324] and preservation and analysis of evidence. [FN325]

[FN322] Cf. Office of the Special Prosecutor for the Investigation of Crimes related to the Murders of Women in Ciudad Juárez, Informe Final, supra note 87, folio 14580, and testimony of witness Doretti, supra note 141, folio 2326.
[FN323] Cf. Report of the United Nations Committee of International Experts, supra note 76, folio 1900, and Report on Mexico produced by CEDAW, supra note 64, folio 1929.
[FN324] Cf. Report on Mexico produced by CEDAW, supra note 64, folio 1929.
[FN325] Cf. testimony of witness Doretti, supra note 141, folio 2326.

(b) Irregularities in the performance of autopsies

308. The representatives alleged that the conclusions regarding the cause of death of the victims are unclear and uncertain. They also stressed that the authorities did not order the appropriate tests; moreover, they took samples of organs to perform tests, but there is no indication of the results of these tests or the location of the sample.

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309. The State acknowledged "[t]he inappropriate procedure used to identify the bodies and to determine the cause of death."

310. The Court underscores that the purpose of an autopsy is, at the very least, to gather information to identify the dead person, and the hour, date, cause and form of death. An autopsy must respect certain basic formal procedures, such as indicating the date and time it starts and ends, as well as the place where it is performed and the name of the official who performs it. Furthermore, inter alia, it is necessary to photograph the body comprehensively; to x-ray the body, the bag or wrappings, and then undress it and record any injuries. Any teeth that are absent, loose or damaged should be recorded, as well as any dental work, and the genital and surrounding areas examined carefully to look for signs of rape. When sexual assault or rape is suspected, oral, vaginal and rectal liquid should be preserved, as well as any foreign hair and the victim's pubic hair. [FN326] In addition, the United Nations Manual indicates that the autopsy report should note the body position and condition, including whether it is warm or cold, supple or rigid; the deceased's hands should be protected, the ambient temperature noted, and any insects present collected. [FN327]

[FN326] Cf. Manual on the Effective Prevention and Investigation of Extralegal Executions, supra note 310.
[FN327] Cf. Manual on the Effective Prevention and Investigation of Extralegal Executions, supra note 310.

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311. In this case, an EAAF expert who analyzed the autopsy of Esmeralda Herrera indicated that it was incomplete; that it failed to mention the skeletal injuries and absence of skin, and omitted tests to determine other evidence. The degree of decomposition was not described, or the macroscopy of the internal organs, and the cranium was not examined; that is, there was no opening in it. [FN328] The photographs or radiographs that should have been taken were not attached to the autopsies, and there was no reference to them. [FN329] Based on the evidence available to the Tribunal, similar conclusions can be reached as regards the other autopsies. [FN330] In addition, there is no record of any specific tests having been carried out to look for evidence of sexual assault, which is particularly serious owing to the proven context in this case and to the characteristics of the bodies when they were discovered (supra para. 212).

[FN328] Cf. testimony given by expert witness Bosio before notary public on April 15, 2009 (merits case file, volume VI, folio 2279).
[FN329] Cf. testimony of expert witness Bosio, supra note 328, folio 2378.
[FN330] Cf. autopsy certificates, supra note 239.

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312. The Court finds that this negligence is not isolated, but forms part of a context in Ciudad Juárez in which, "[i]n most of the case files analyzed, there is no evidence that an expert appraisal was requested – nor was one added to the file during the proceedings – to look for

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fibers on the clothes of the victims, for subsequent comparison; and this is true, even in the case of the human remains or skeletons of unidentified victims." [FN331] According to a 2003 Amnesty International report, the autopsies were not performed "in accordance with the required standards to help clarify the crimes"; [FN332] also the means used to reach conclusions, such as height, form of death, or the possible time and date of death, were not explained. [FN333] Furthermore, the Office of the Special Prosecutor for the Investigation of the Murders of Women in Ciudad Juárez mentioned that "in some cases it was found that these reports established dates on which it is fully established that the victims were still alive." [FN334] In addition, witness Doretti stated that many murder case files "did not contain information on the final location of the remains after they had passed through the [Forensic Medicine Service], including both those that were returned to their next of kin, and those that were buried as unidentified remains in municipal cemeteries or deposited" in said service. [FN335]

[FN331] Office of the Special Prosecutor for the Investigation of Crimes related to the Murders of Women in Ciudad Juárez, Informe Final, supra note 87, folio 14580.
[FN332] Amnesty International, Intolerable killings, supra note 64, folio 2301.
[FN333] Cf. Office of the Special Prosecutor for the Investigation of Crimes related to the Murders of Women in Ciudad Juárez, Informe Final, supra note 87, folio 14580, and testimony of expert witness Bosio, supra note 328, folios 2281, 2284 and 2286.
[FN334] Office of the Special Prosecutor for the Investigation of Crimes related to the Murders of Women in the Municipality of Juárez, Informe Final, supra note 87, folio 14580.
[FN335] Cf. testimony of witness Doretti, supra note 141, folio 2331.

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c) Alleged irregularities in the identification and return of the bodies

313. The Commission and the representatives mentioned contradictions and inconsistencies in the results of the identification of the remains. The State "acknowledge[d] the absence of irrefutable, scientific determination of the identity of the three victims at the outset." The Tribunal will examine below irregularities in: (a) the assignment of names to the bodies found; (b) the incomplete return of the bodies without positive identification, and (c) the disputes concerning DNA tests.

c.1) Initial arbitrary assignment of names to the bodies

314. The Commission and the representatives alleged that the initial assignment of names to the bodies was arbitrary. In addition, the representatives indicated that when "an arrest warrant was issued against two accused, each body had a first and last name, even though […] there was no new evidence or scientific proof to support that conclusion."

315. Regarding the relevance of identifying the victims according to the rules of due diligence, expert witness Castresana Fernández stated the following:

Once the investigation starts and it is necessary to identify the victim, the appropriate - technical forensic - procedures become relevant because, owing to the conditions in which bodies or

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human remains are found, it is often impossible to make a visual identification – directly or by means of a photograph – or by the clothing and personal effects of the victim. In these cases, identification using scientific means such as the anthropometric system, fingerprints, the Matheios geometric system, biometrics, DNA, forensic anthropology, forensic odontology, etc., requires specialized laboratories with international accreditation and recognition which guarantee the reliability of the procedures and the capability of the professionals who perform the tests. [FN336]

[FN336] Testimony of expert witness Castresana Fernández, supra note 137, folio 2883.
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316. Regarding the arbitrary assignment of names, witness Máynez Grijalva testified that "the identity of the bodies provided by the Public Prosecutor was obtained from the confession of those detained." [FN337] Moreover, the EAAF indicated that a request was made that "four of the eight skeletal remains recovered, [including the three victims be] compared […] with only one of the women who had disappeared." [FN338] The EAAF added that "[t]he official communications making this request and the case file consulted do not specify why, one or two days after they were discovered, certain bodies were specifically compared […] only with certain women who had disappeared." [FN339]

[FN337] Testimony of witness Máynez Grijalva, supra note 312, folio 3846.
[FN338] Cf. E.A.A.F., Dictamen en antropología and genética forense, supra note 189, folio 10330.
[FN339] Cf. E.A.A.F., Dictamen en antropología and genética forense, supra note 189, folio 10331.
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317. The State did not contest the factual clarifications made by these statements and documents, so that the Court finds that these irregularities related to the arbitrary assignment of identities have been proved.

c.2) Return of the bodies without a positive identification

318. International standards require that the remains be returned only when the victim is clearly identified; that is, when a positive identification has been obtained. The Minnesota Protocol establishes that "the body must be identified by reliable witnesses and other objective methods." [FN340]

[FN340] Cf. Manual on the Effective Prevention and Investigation of Extralegal Executions, supra [note 310.
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319. In the instant case, although the State ordered different expert appraisals, [FN341] including some based on cranial-facial superposition and DNA tests, [FN342] when the remains were returned to the next of kin, the State only had the information provided by the latter regarding general physical data and identification of clothing. [FN343]

[FN341] Cf. Official letter No. 0504/00 issued by the official of the Public Prosecutor's Office, head of the Office of the Special Prosecutor for the Investigation of the Murders of Women on November 10, 2001 (case file of attachments to the application, volume IX, attachment 39, folio 2687).
[FN342] Cf. Official letter No. 0507/01 issued by the official of the Public Prosecutor's Office, head of the Office of the Special Prosecutor for the Investigation of the Murders of Women on November 8, 2001 (case file of attachments to the application, volume IX, attachment 39, folio 2688); official letter 504/01 issued by the official of the Public Prosecutor's Office, head of the Office of the Special Prosecutor for the Investigation of the Murders of Women on November 8, 2001 (case file of attachments to the application, volume IX, attachment 39, folio 2689); official letter No. 513/01 issued by the official of the Public Prosecutor's Office, head of the Office of the Special Prosecutor for the Investigation of the Murders of Women on November 9, 2001 (case file of attachments to the application, volume IX, attachment 39, folio 2690), and official letter No. 514/01 issued by the official of the Public Prosecutor's Office, head of the Office of the Special Prosecutor for the Investigation of the Murders of Women on November 9, 2001 (case file of attachments to the application, volume IX, attachment 39, folio 2691).
[FN343] Cf. EAAF, Dictamen en antropología and genética forense, supra note 189, folio 10331.

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320. For example, in the case of Claudia Ivette González, on November 15, 2001, her sister indicated that she had identified her from a hair sample, a fingernail, a jacket and a blouse, as well as from a tooth filling. [FN344] The body was returned to the next of kin that same day. [FN345] In the case of Esmeralda Herrera, on November 16, 2001, she was identified by her brother and her father by "the clothes found" where the bodies were discovered. [FN346] That same day, the body was returned to the family. [FN347] Regarding that case, the EAAF considered that, when the remains were returned to the next of kin, "there were insufficient elements to establish a positive identification." [FN348] In the case of Laura Berenice Ramos, on March 22, 2002, her mother indicated that she recognized the body of her daughter by a brassiere and "huaraches" (sandals) that she was shown. She also stated that she was asked whether her daughter had ever broken her arm, and had responded affirmatively. [FN349] This identification was confirmed by the victim's uncle, when he recognized the characteristics that were described and the fracture of the arm. [FN350] The same day, the body was returned to them. [FN351]

[FN344] Cf. appearance of Mayela Banda González, supra note 173, folios 2796 and 2797.
[FN345] Cf. Official letter No. 530/01 issued by the official of the Public Prosecutor's Office attached to the Office of the Special Prosecutor for the Investigation of the Murders of Women on November 15, 2001 (case file of attachments to the application, volume IX, attachment 51 and 53, folio 2799).

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[FN346] Cf. testimonial statement on the identification of a body made by Adrián Herrera Monreal on November 16, 2001 (case file of attachments to the application, volume IX, attachment 54, folio 2882), and testimonial statement on the identification of a body made by Antonio Herrera Rodríguez (case file of attachments to the application, volume IX, attachment 55, folio 2884).
[FN347] Cf. official letter No. 534/01 issued by the official of the Public Prosecutor's Office attached to the Office of the Special Prosecutor for the Investigation of the Murders of Women on November 16, 2001 (case file of attachments to the application, volume IX, attachments 56 and 57, folio 2886).
[FN348] Cf. testimony of expert witness Doretti, supra note 141, folio 2347.
[FN349] Cf. testimonial statement on the identification of a body made by Benita Monárrez Salgado on March 22, 2002 (case file of attachments to the application, volume IX, attachment 67, folio 2934).
[FN350] Cf. testimonial statement on the identification of a body made by Pablo Monárrez Salgado on March 22, 2002 (case file of attachments to the application, volume IX, attachment 68, folio 2937).
[FN351] Cf. official letter No. 248/02 MP, authorization to return the body of Laura Berenice Ramos Monárrez, issued by the official of the Public Prosecutor's Office attached to the Office of the Special Prosecutor for the Investigation of the Murders of Women on March 22, 2002 (case file of attachments to the application, volume IX, attachment 69 and 70, folio 2939).
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321. After returning the bodies to the next of kin, the Technical Office of Expert Services of Chihuahua issued reports on forensic craniometry and odontology and determined "matching cranial-facial features" and "characteristics of the teeth" when comparing photographs of the victims, their skulls and their teeth. [FN352]

[FN352] Cf. forensic identification report issued by the Technical Office of Expert Services in relation to Claudia Ivette González on November 21, 2001 (case file of attachments to the application, volume IX, attachment 58, folios 2888 to 2893); forensic identification report issued by the Technical Office of Expert Services in relation to Esmeralda Herrera on November 21, 2001 (case file of attachments to the application, volume IX, attachment 59, folios 2895 to 2900), and forensic identification report issued by the Technical Office of Expert Services in relation to Laura Berenice Ramos on January 8, 2002 (case file of attachments to the application, volume IX, attachment 72, folios 2955 to 2962).
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322. Regarding the use of the cranial-facial superposition methodology, the expert appraisal in the case file indicates that this should be complemented by other analyses in order to achieve a positive identification. Expert witness Snow explained that "no responsible forensic anthropologist uses this technique as a means of positive identification." [FN353] For example, in the case of Esmeralda Herrera, witness Doretti explained that "the analysis of the cranium-photograph superposition should have been supported by complete DNA testing before the remains were returned." In this regard, the witness indicated that the return of the remains meant

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that genetic testing carried out almost a year later offered inconclusive results owing to the negligible DNA information recovered. [FN354]

[FN353] Cf. testimony of expert witness Snow, supra note 321, folio 4224, and testimony of expert witness Doretti, supra note 141, folio 2345.
[FN354] Cf. testimony of expert witness Doretti, supra note 141, folio 2347.
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323. In addition, the EAAF stated that, in October 2003, new genetic tests were requested for the other Cotton Field cases. However, the remains of the victims in the instant case were not examined, "possibly because they had already been returned to their families and the samples taken in September 2002 were all used in the 2002 tests." [FN355]

[FN355] Cf. EAAF, Dictamen en antropología and genética forense, supra note 189, folio 10341.
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324. The Court concludes that the identification made by the next of kin was not sufficient for a positive identification, and neither were the cranial-facial tests. In addition, the Court finds that the bodies were returned before there was certainty about their identity, which led to further difficulties in the subsequent identification process using DNA samples.

325. Despite this, the Tribunal finds that the definitive identification of Laura Berenice Ramos was made between October 18, 2005, and March 16, 2006, after the EAAF and performed a second DNA test on a collar bone that her family had kept. [FN356] On March 15, 2006, Esmeralda Herrera's mother went to the Public Prosecutor's Office to advise that she did not want them to continue with the DNA tests, and to state that she agreed with the previous identification. [FN357] The next of kin of Claudia Ivette González indicated that they were satisfied with the initial identification (supra para. 218).

[FN356] Cf. EAAF, Dictamen en antropología and genética forense, supra note 189, folios 10358, 10367 and 10368.
[FN357] Cf. testimony of Irma Monreal Jaime given before the official of the Public Prosecutor's Office attached to the group of the Joint Agency to Investigate the Murder of Women on March 15, 2006 (case file of attachments to the answer to the application, volume XXX, attachment 50, Docket, I volume I, folio 10230).
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c.3) Disputes concerning the DNA tests

326. The Commission and the representatives alleged that the results of the DNA tests "were handed over two years later" and that "complete genetic profiles could not be obtained."

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327. The State argued that the "delay in the DNA results […] was not caused by negligence on the part of the local authorities, but by the procedure required for said tests."

328. In the instant case, three DNA tests were performed in 2002. A test in September 2002 concluded that there was no genetic relationship between the body identified as that of Laura Berenice Ramos and her family, [FN358] which contradicted the conclusions established by the anthropological tests. [FN359] Another DNA test carried out in October 2002 revealed that Laura Berenice Ramos was not related to two families that had been tested [FN360] and that there was a "probable genetic relationship [of skeletal remains] with the Herrera family." [FN361] In the case of Claudia Ivette González, a comparison with her family could not be made "owing to the absence of a genetic profile in [her] skeletal remains." [FN362]

[FN358] Cf. EAAF, dictamen en antropología and genética forense, supra note 189, folio 10339.
[FN359] Cf. testimony of expert witness Doretti, supra nota 141, folios 2352 and 2353.
[FN360] Cf. appraisal made by an expert in forensic genetics on October 8, 2002 (case file of attachments to the application, volume XI, folio 2908).
[FN361] Cf. forensic genetics appraisal, supra note 360, folio 2908.
[FN362] Cf. forensic genetics appraisal, supra note 360, folio 2908.

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329. Regarding these results, the EAAF indicated that the fact that it had been concluded that two genetic profiles of two skeletons belonged to the same person called for "new samples of the remains so as to be able to confirm or rectify the diagnosis." [FN363] In addition, the EAAF criticized that "not all the remains were compared with all the next of kin of the eight families." [FN364]

[FN363] Cf. EAAF, dictamen en antropología and genética forense, supra note 189, folio 10339.
[FN364] Cf. EAAF, dictamen en antropología and genética forense, supra note 189, folio 10339.

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330. Regarding the case of Esmeralda Herrera, the EAAF indicated that the conclusions from one analysis were "insufficient […] to establish a genetic relationship," [FN365] and that "[t]here is no record in the case file of the chain of custody of the samples of the remains mentioned that were tested during this first genetic analysis." [FN366]

[FN365] Cf. EAAF, dictamen en antropología and genética forense, supra note 189, folio 10341.
[FN366] Cf. EAAF, dictamen en antropología and genética forense, supra note 189, folio 10338.

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331. The Court finds that there were irregularities in the implementation of the DNA analyses and that they only gave a partially positive result in the case of Esmeralda Herrera. There were no results in the case of Claudia Ivette González while, in the case of Laura Berenice Ramos, the results contradicted the identification that had been made by the next of kin and the cranium-

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photograph comparison. Regarding the allegation concerning the excessive time taken to perform said tests, no arguments were offered supported by evidence that would allow the Tribunal to conclude that there had been unreasonable delays.

332. Based on the above, the Court considers that this case relates to the findings of the United Nations Office for Drugs and Crime in similar cases. The Office found "a failure to take DNA samples from the victims, the disappeared, and their respective family members." [FN367] When the samples were analyzed, many of the results differed from the initial identifications. [FN368] In addition, the results of obtained from the different DNA tests were, in some cases, contradictory; "for example, one laboratory obtained a positive result between certain remains and a specific family […], while another laboratory obtained negative results when making the same comparison." Moreover, possible solutions were not implemented, such as "bringing the experts together to review the divergent opinions and to try and obtain more data." [FN369]

[FN367] Cf. Report of the United Nations Committee of International Experts, supra note 76, folio 1901.

[FN368] Cf. Report on Mexico produced by CEDAW, supra note 64, folio 1930 and testimony of expert witness Doretti, supra note 141, folio 2352.

[FN369] Cf. testimony of expert witness Doretti, supra note 141, folio 2334.

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333. Based on the above, and also on the acknowledgement of responsibility made by the State, the Court finds that irregularities occurred as regards: (i) absence of information in the report on the discovery of the bodies; (ii) inadequate preservation of the crime scene; (iii) lack of rigor in gathering evidence and in the chain of custody; (iv) contradictions and deficiencies in the autopsies, and (v) irregularities and deficiencies in the identification of the bodies, as well as in their improper return to the families.

4.2.2.2. Alleged irregularities in the actions taken against those alleged to be responsible and alleged fabrication of guilty parties

334. The Commission alleged that Víctor Javier García Uribe and Gustavo González Meza (hereinafter "Mr. García" and "Mr. González") were accused of having committed the murders, even though they had no evident "connection with the facts," and that their "arrest […] was arbitrary and their confessions of guilt were obtained under torture." The representatives agreed with the Commission and added that the "Attorney General [gave orders] 'to concoct' the case file and fabricate guilty parties, to avoid social pressure." They also indicated that Mr. González died in prison following a hernia operation related to the torture he had suffered. The Commission and the representatives added that the defense lawyers of Mr. García and Mr. González were murdered in circumstances that have still not been clarified, and that their next of kin have been threatened, resulting in the adoption of precautionary measures in their favor.

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335. The State asserted that the Court "can only examine the alleged violations" that relate to the death of the three victims and not those regarding to the criminal proceedings filed against Mr. García and Mr. González. Furthermore, the State indicated that "the hypothesis of the probable responsibility" of said individuals "cannot and should not be considered as fabrication of guilty parties"; rather "it was the result of the examination of several items of evidence that, […] at the time, allowed their direct participation [in the murders] to be presumed." Nevertheless, the State acknowledged that the investigation into these individuals meant that "other lines of inquiry" were not exhausted, and that "the determination that [these individuals] were not criminally responsible meant that the investigating authorities lost credibility in the eyes of the next of kin, and resulted in the loss of evidence and clues merely because of the passage of time."

336. Regarding the State's allegation concerning the Court's lack of jurisdiction, the Tribunal reiterates the contents of the order of January 19, 2009 (supra para. 9), to the effect that all the evidence in the case file concerning what happened with regard to Mr. García and Mr. González could be used as "relevant evidence when assessing […] the supposed deficiencies in the investigations [into the death of the three victims] conducted in the domestic jurisdiction."

337. In this regard, Mr. García and Mr. González were detained on November 9, 2001, following the discovery of the bodies in the cotton field on November 6 and 7, 2001. In their initial statements, they admitted that they had committed the crimes and described how they had perpetrated them. [FN370] However, on November 12, 2001, when their "preliminary statement" was being heard, they declared that they had confessed because they had been tortured and owing to threats against them and their next of kin. [FN371]

[FN370] Cf. testimony of Víctor Javier García Uribe before the official of the Public Prosecutor's Office attached to the Office of the Attorney General for the state of Chihuahua on November 9, 2001 (case file of attachments to the pleadings and motions brief, volume XIV, attachment 3, folios 4839 to 4842) and testimony of Gustavo González Meza before the official of the Public Prosecutor's Office attached to the Office of the Attorney General for the state of Chihuahua on November 9, 2001 (case file of attachments to the pleadings and motions brief, volume XIV, attachment 3, folios 4854 to 4857).

[FN371] Cf. preliminary statement of Gustavo González Meza before the Third Criminal Judge of the Bravos District, Chihuahua, on November 12, 2001 (case file of attachments to the pleadings and motions brief, volume XIV, attachment 3, folios 4887 to 4894) and preliminary statement of Víctor Javier García Uribe before the Third Criminal Judge of the Bravos District, Chihuahua, on November 12, 2001 (case file of attachments to the pleadings and motions brief, volume XIV, attachment 3, folios 4896 to 4904).

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338. On February 5, 2002, Mr. González's lawyer died from gun wounds inflicted by the Judicial Police of the State of Chihuahua in circumstances that remain to be clarified. [FN372] The same day, according to a 2003 report by Amnesty International, his wife was threatened by two unidentified men. [FN373] On February 8, 2003, Mr. González died in the prison where he was interned, just hours after a surgical operation. [FN374]

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[FN372] La CNDH indicated that "according to the state of Chihuahua authorities, he was killed because he was mistaken for a criminal and, according to some reports, the lawyer who is currently defending García Uribe has also been threatened" (CNDH, Informe Especial, supra note 66, folio 2230; IACHR, The Situation of the Rights of Women in Ciudad Juárez, supra note 64, folio 1749, and Amnesty International, Intolerable killings, supra note 64, folio 2294).
[FN373] The Commission and the representatives indicated that, in January 2006, Mr. García's lawyer was murdered in circumstances that remain to be clarified. However, the only evidence in the case file is the testimony of a journalist, which the Court rejected based on its form (supra para. 106).
[FN374] Cf. decision of discontinuance due to the death of the accused Gustavo González Meza (case file of attachments to the pleadings and motions brief, volume XVIII, attachment 3, folios 6164 to 6166).
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339. On October 13, 2004, the Third Criminal Judge of the Bravos Judicial District sentenced Mr. García to fifty years' imprisonment, finding him guilty of the Cotton Field murders. [FN375] The judge indicated that the "retraction" made by the accused "was unconvincing" because "it resulted from further thought about the consequences of acknowledging perpetration of a crime, or the recommendations of their legal counsel." The judge added that "the signs of mistreatment found on their bodies cannot be the reason why they signed their initial statements."

[FN375] Cf. Third Criminal Judge of the Bravos Judicial District, judgment handed down in criminal case 74/2004, "Guadalupe Luna de la Rosa et al." on October 13, 2004 (case file of attachments to the pleadings and motions brief, volume XVIII, folios 6213 to 6398).
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340. On July 14, 2005, the Fourth Chamber of the Supreme Court of Justice of Chihuahua revoked the ruling in first instance, based on lack of evidence against Mr. García. [FN376] Furthermore, this Chamber indicated that, in order to detain and accuse Mr. García, a prior investigation was used concerning "entirely different facts" that occurred in 1999, which provided "no basis […] for deciding to order his detention." Lastly, it noted that no arrest warrant had been issued, when it would have been perfectly possible to obtain one. Based on the foregoing, the Chamber indicated that "the detention of [Mr. García and Mr. González] was arbitrary." With regard to the confessions, the Chamber stated that "it was difficult to believe that, knowing their right [not to incriminate themselves,] both the accused would have given such a detailed account […] of their participation in the facts," and that they even accepted the 1999 facts, "even though no one questioned them in this regard." It also alluded to the "contradiction between [the confessions] and the autopsies," so that "the confessions of the two accused were prepared to coincide with the dates of the disappearances of the women who were said to have been their victims."

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[FN376] Cf. Fourth Criminal Chamber of the Supreme Court of Justice of the state of Chihuahua, Judgment of July 14, 2005 (case file of attachments to the application, volume X, attachment 83, folios 3422 to 3500).
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341. It should be emphasized that, in 2003, the CNDH considered that "it was never indicated, and there was no evidence that would, at least, have permitted the presumption that the injuries were self-inflicted; to the contrary, there were allegations that […] they had been tortured"; consequently, the CNDH considered "it had been proved that […] they had been subjected to serious suffering in order to make them confess to a crime." In addition, the CNDH stated that "the performance of the defense counsel appears to be contrary to that which should be carried out according to the Constitution," "because, at one point of the confession, he supplemented the answers of those he was defending in order to ensure a stronger indictment." [FN377]

[FN377] CNDH, Informe Especial, supra note 66, folios 2229 and 2230, and Second Inspector General of the National Human Rights Commission, official letter No. V2/004191 of February 27, 2004 (case file of attachments to the application, volume IX, attachment 78, folios 2994 and 2995).
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342. For its part, the EAAF highlighted irregularities relating to the fact that: (i) [Mr. García and Mr. González] were only shown flyers with photographs of eight of the disappeared women whereas, at the time, more women had disappeared; (ii) it was precisely the women in those flyers with photographs that constituted the final official list of the cotton field victims; (iii) the similarity of their statements with the contents of official documents, such as the flyers and the autopsies, was striking; (iv) they remembered very precisely the physical data and clothing of each of their victims, well over a year after some of the disappearances had occurred, and they both had similar recollections. The EAAF also indicated that, considering the degree of contradiction in the expert appraisals provided, the judgment convicting the accused did not explain how these had been assessed. [FN378]

[FN378] Cf. testimony of witness Doretti, supra note 141, folio 2379.
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343. The Tribunal recalls that it is not determining whether the Convention was violated as regards Mr. García and Mr. González. Nevertheless, the information concerning the irregularities in the investigation is essential for assessing the access to justice of the mothers and the other relatives of the three murdered women. Taking into account the evidence examined, it can be concluded that the investigations into the "cotton field crimes" were related to a context of irregularities in the determination of those responsible for similar crimes. Hence, for example, in 2003, the CNDH referred to the "indiscriminate obtaining of confessions" by officials of the Public Prosecutor's Office and police agents working under them. Based on 89 cases filed before the jurisdictional authority, the CNDH observed that:

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Those involved in the perpetration of the crimes confessed to their participation "spontaneously" before the official of the state Public Prosecutor's Office, even though, subsequently, they testified before the jurisdictional body that they had been subjected to torture, ill-treatment or threats to make them sign statements with which they disagreed and which had been extracted from them by the use of force.
[…]
Evidently, when detainees are tortured, those responsible generally use practices designed not to leave any trace on the victim's body and, if applicable, to justify their actions by simulating medical certificates that, in general, merely indicate that the person examined was "uninjured" without complying with any methodological parameters." [FN379]

[FN379] CNDH, Informe Especial, supra note 66, folios 2228 and 2229.
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344. A report of the United Nations Office for Drugs and Crime (UNODC) on its mission in Ciudad Juárez, examined the Cotton Field case and other cases. The Office verified that several judges unduly inverted the burden of proof, rejected the allegations of torture refusing to accept the truth of the retractions, and indicated that the allegations had not been proved adequately, even though no expert medical evaluation of the injuries had been made and in the absence of a prior inquiry into the facts. The report concluded that:

The same pattern is found in all the procedures examined: […] a significant number of the [accused] confess to the crimes with which they are charged when giving testimony in the preliminary phase of the proceedings or in the preliminary inquiry assisted by a public defender (not appointed by them), but do not ratify the confession in court, […] denouncing inhuman and degrading treatment and […] torture to obtain their confession. Invariably, these allegations are rejected by the intervening judges, in the successive decisions they deliver, with rather abstract arguments, or with sundry juridical technical terminology, but without ordered investigations or measures to clarify whether the complaints of torture are founded. This happens, even though the complaints are extremely detailed and, in the different proceedings examined, replicate the methods supposedly used by the Judicial Police (such as, electric prods or "chicharras", blankets soaked with water, suffocation with plastic bags, etc.), and appear to be confirmed by unequivocal reports issued by private doctors and/or official institutions certifying the physical signs of ill-treatment incompatible with the hypothesis of self-injury, as well as by photographs and other forms of proof. […] The systematic corollary to the complaints of unlawful deprivation of liberty and of torture, followed by the failure to investigate them by the Public Prosecutor's Office and by the judges, is the acceptance by the court officials of the statements made by the accused and witnesses in these conditions as evidence of valid charges against them, in order to create and support the accusation. In Chihuahua, proceedings are conducted […] based fundamentally on the self-incrimination of the accused and on the denunciations of the co-accused and witnesses. [FN380]

[FN380] Cf. Report of the United Nations Committee of International Experts, supra note 76, folios 1878, 1879, 1883 and 1891.

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345. Similarly, the Ciudad Juárez Commission indicated that "the expert opinions offered […] were designed to justify a hypothesis of the Public Prosecutor's Office." [FN381] In 2002, the U.N. Special Rapporteur on the Independence of the Judiciary referred to the torture of five members of a gang, accused of some of the crimes. [FN382] Also, in a 2003 report, Amnesty International documented at least three other cases in the city of Chihuahua in which torture was used to obtain confessions from those suspected of murdering women. [FN383]

[FN381] Cf. Comisión para Prevenir y Erradicar la Violencia contra las Mujeres en Ciudad Juárez, Tercer informe de gestión, supra note 101, folio 9011.
[FN382] Cf. Report of the Special Rapporteur on the independence of judges and lawyers, supra note 74, folio 2100.
[FN383] Cf. Amnesty International, Intolerable killings, supra note 64, folio 2273.
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346. Based on the above, the Court accepts the State's acknowledgement of responsibility that the investigation against Mr. García and Mr. González meant that "other lines of inquiry were not followed up on" and that "the determination that [these individuals] were not criminally responsible meant that the investigating authorities lost credibility in the eyes of the next of kin, and resulted in the loss of evidence and clues merely because of the passage of time." In addition, the Tribunal underscores that the lack of the due investigation and punishment of reported irregularities encourages investigators to continue using such methods. This affects the ability of the judicial authorities to identify and prosecute those responsible and to impose the corresponding punishment, which makes access to justice ineffective. In this case, these irregularities resulted in the re-opening of the investigation four years after the facts had occurred, which had a serious impact on its effectiveness, especially in view of the type of crime that had been committed, where assessment of evidence becomes more difficult with the passage of time.

4.2.2.3. Alleged unjustified delay and absence of substantial progress in the investigations

347. The Commission alleged that "there was no follow-up to key testimony with information relevant to the investigation." The representatives agreed with this and added that "no one has been accused of the murders" and that, in the case of Claudia Ivette González, the State "had made no progress when it appeared before the Court."

348. The State indicated that, during the second stage of the investigations, "the investigations were re-opened [using] the original attestations of the measures taken following the discovery of the bodies," including "the missing person reports, the testimonies obtained, the inspection of the place where they were discovered, the lists of the evidence gathered, and the identification reports."

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349. In this regard, the Tribunal has indicated in its jurisprudence that a State may be responsible when "evidence that could have been very important for the due clarification of the [violations is] not ordered, practiced or evaluated." [FN384]

[FN384] Case of the "Street Children" (Villagrán Morales et al.) v. Guatemala, supra note 31, para. 230.

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350. In the instant case, the Head of the Joint Public Prosecutors' Office to Investigate the Murders of Women in Ciudad Juárez received the criminal case file for the cotton field deaths on March 9, 2006, after the judgment of October 13, 2004, convicting the only individual who had been charged with the crimes had been revoked on July 14, 2005. [FN385] The Tribunal finds that, without any justification, the investigations were paralyzed for almost eight months following the conviction was revoked.

[FN385] Cf. decision of March 9, 2006, of the Office of the Attorney General for the state of Chihuahua, Northern Zone, Joint Agency to Investigate the Murders of Women in Ciudad Juárez in preliminary inquiry file 27913/01-I (case file of attachments to the answer to the application, volume XXX, attachment 50, folio 10184) and decision of the Fourth Criminal Chamber of the Supreme Court of Justice of the state of Chihuahua of July 14, 2005 (case file of attachments to the answer to the application, volume X, attachment 83, folios 3422 to 3500).

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351. Furthermore, prior to the public hearing, the Court was informed of the results of the second stage of the investigations and the work plan of the Public Prosecutor's Office. [FN386] However, the measures announced by the official of the Public Prosecutor's Office in charge of the investigation have not led to any results, such as the examination of certain items of clothing, new DNA analyses, and investigation of those presumably responsible.

[FN386] Testimony of witness Caballero Rodríguez at the public hearing held on April 28, 2009.

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352. Lastly, the Tribunal underscores that it will be difficult to rectify the irregularities that occurred during the first stage of the investigations, which the State has acknowledged, by the belated and insufficient probative measures that the State has taken since 2006. Proof of this is that, although eight years have elapsed since the facts occurred; the investigation has not advanced beyond the preliminary phase.

4.2.2.4. Alleged irregularities regarding the fragmentation of the investigations and its alleged impact on creating impunity

The Court observes that the dispute between the parties concerning the fragmentation of the investigations relates to three distinct issues: (a) the alleged irregularities in the initiation of an

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investigation into organ trafficking and the failure to coordinate this with the investigation into disappearances and murders; (b) the alleged need for the federal jurisdiction to hear this case, and (c) the alleged irregularities arising from investigating the three cases separately.

(a) Alleged irregularities in the initiation of an investigation into organ trafficking and the failure to coordinate this with the investigation into the disappearances and murders

353. The eight cotton field deaths were investigated together by the Office of the Attorney General of the Republic (PGR) between 2003 and 2006. Under the federal jurisdiction, it investigated the possible connection with organized crime, in particular with organ trafficking. [FN387] The crime of homicide continues to fall within the jurisdiction of the state Attorney General's Office (also referred to as the "PGJE" for its name in Spanish). [FN388]

[FN387] Cf. report of the Office of the Attorney General of the Republic, "Homicidios de Mujeres en Ciudad Juárez, Chihuahua" (case file of attachments to the application, volume II, appendix 5, folios 184 to 216), and Office of the Special Prosecutor for the Investigation of the Murders of Women in the Municipality of Juárez, Chihuahua, Tercer Informe, January 2005 (case file of attachments to the answer to the application, volume X, attachment 81, folio 3362).
[FN388] Cf. Third report of the Special Prosecutor's Office, supra note 387, folio 3363.

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354. The Commission alleged that "when the Office of the Attorney General of the Republic retained the case files in exercise of its right to jurisdiction (atraccion), there was no procedural or investigative activity of any kind." The representatives considered that this line of investigation "was considered implausible," "spurious"; that it had "given rise to morbid curiosity and sensationalist journalism" and that, "after four years, […] it had contributed nothing to the investigation of the [Cotton Field] murders." In addition, they stressed that "there was never any connection between the federal preliminary investigation and the proceedings filed against [Mr. García and Mr. González]."

355. The State alleged that, during the investigation into organ trafficking, "273 expert appraisals were prepared on forensic medicine, forensic genetics, identikit pictures, social work, psychiatrics, graphoscopy, polygraphy, photography, criminology, criminalistics, psychology, dactiloscopy, audio, forensic stomatology, facial reconstruction, identification, compilations of newspaper Articles, inspection with a binomial sensor, victimology, chemistry, and forensic anthropology. Moreover, 737 sworn statements before the Public Prosecutor's Office (declaraciones ministeriales) were taken, 246 inquiries were made of the Federal Investigation Agency, 2 international court hearings were attended, and 43 rogatory letters were issued to support the Office of the Attorney General for Chihuahua." It also indicated that "[t]he material arising from the measures taken by the PGR [Office of the Attorney General of the Republic] was incorporated into re-opened preliminary investigation No. 27913/01-1."

356. Regarding the fact that the crime of homicide was not taken over by the federal jurisdiction, expert witness Castresana Fernández indicated that "[a]ccording to the integral

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investigation principle, the PGR [Office of the Attorney General of the Republic] should have investigated the Cotton Field disappearances and murders.” [FN389]

[FN389] Testimony of expert witness Castresana Fernández, supra note 137, folio 2902.
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357. The Tribunal observes that, although domestic legislation establishes the possibility that federal authorities can consider crimes of ordinary jurisdiction when they are related to federal crimes, [FN390] that did not happen in this case. [FN391] However, the representatives did not argue why this runs counter to the obligation to guarantee effective access to justice. In particular, it is unclear whether this is a faculty or and obligation and how it affected the investigation. The fact that the representatives did not provide sufficient clarification prevents the Court from making a ruling on this allegation.

[FN390] Cf. Article 73 fraction XXI of the Political Constitution of the United Mexican States (case file of attachments to the answer to the application, Volume XXVIII, Attachment 43, folio 9852).
[FN391] Cf. testimony of witness Delgadillo Pérez, supra note 187, folio 3513, and testimony of expert witness Castresana Fernández, supra note 137, folio 2902.
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358. In relation to the results of the investigation into organ-trafficking, the Court observes that, in 2007, some measures taken in that investigation were indeed transferred to the preliminary investigation into the murders. [FN392] Nevertheless, the Tribunal has not received any evidence that would allow it to determine whether all the evidence mentioned by the State was transferred. Moreover, once again, the representatives failed to argue how that evidence was relevant. To the contrary, they maintained that this line of investigation was “implausible.” Bearing this in mind, the Court declares that the representatives did not provide any elements that would allow it to conclude that the supposed negligence in transferring evidence constitutes – or contributes to – a human rights violation.

[FN392] Cf. attestations of August 16, 2007, by which the official of the Public Prosecutor’s Office attached to the Joint Agency to Investigate the Murders in Ciudad Juárez traced different measures (case file of attachments to the answer to the application, volume XXXVII, attachment 50, docket III, volume II, folios 10569, 10570, 13577, 13578, 13641 and 13642).
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359. Regarding the absence of a connection between the federal investigation and the investigation in Chihuahua, the case file before the Tribunal does not contain sufficient evidence as regards whether there was an exchange of information between the local and federal Offices of the Attorney General in relation to the murders of the Mss. Herrera, González and Ramos. Furthermore, the investigation before the Office of the Attorney General of the Republic began before the proceedings against Mr. García had ended. There is no explanation of why this other

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investigation, which probably included information concerning Mr. García, was not considered during the proceedings in Chihuahua. [FN393] In the absence of arguments regarding the evidence, the Court is unable to reach a conclusion on the impact of the facts described on the ineffectiveness of the investigation, based merely on a list of those facts.

[FN393] Even though the Special Prosecutor's Office indicated that it had not been proved that "federal laws have been violated, so that it would justify the transfer mechanism" in any of the 19 investigations, the office indicated that attachment B of the report "describes the hypotheses for the investigations, and also the measures that were proposed for each of the 19 preliminary [murder] investigations" of the 22 referred to in said report. Although this indicates an exchange of information, the Court observes that there is no evidence that similar measures were recommended in the cases of the young women, Herrera, González and Ramos (third report of the Special Prosecutor's Office, supra note 387, folio 3363).

(b) Alleged irregularities based on the failure of the Office of the Attorney General of the Republic to have the case files transferred

360. The representatives alleged that "the investigators [should have reached] the conclusion, at least as a hypothesis for investigation, that they were in the presence of an organized criminal group," so that, "from the moment the bodies were discovered, the jurisdiction for the investigation and prosecution of the crimes should have been attributed to the police, prosecution and judicial authorities of the federal jurisdiction." Failure to do this "prevented the application of the specific legislation and the use of the legal and material investigation mechanisms established for organized crime, which are not applicable to ordinary crime."

361. The witness Delgadillo Pérez indicated that "[t]he State has not provided an explanation of why the Federation did not have the investigation into the murders of the eight women transferred to its jurisdiction if, as it has been proved, the local Office of the Attorney General did not have the professional, scientific or technical capacity to conduct it." [FN394] Expert witness Castresana Fernández indicated that, based on the way the murders were committed and the bodies abandoned, with imminent risk for those responsible that they would be discovered, it can be surmised that the murders were perpetrated by organized crime and it can be inferred that the perpetrators were public officials, or private individuals who enjoyed the latter's protection. Based on this assumption, the expert witness indicated that "deliberately maintaining the investigation within the state jurisdiction, even though there were grounds for attributing jurisdiction to the federal level, had another consequence that was equally determinant for impunity: it prevented the application of the specific legislation and the use of the material and legal means of investigation established for organized crime, which are not applicable to ordinary crime." He added that the foregoing resulted in the cases remaining in the hands of "the same state authorities who had manifested such scant diligence." [FN395]

[FN394] Testimony of witness Delgadillo Pérez, supra note 187, folio 3513.

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[FN395] Testimony of expert witness Castresana Fernández, supra note 137, folios 2902 and 2903.
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362. The State did not present arguments on this point. However, it attached a report in which it referred to various criteria that regulate the transfer of cases to the federal jurisdiction. The report mentions the agreement between the Office of the Attorney General of the Republic and the Office of the Attorney General for the state of Chihuahua to carry out joint investigative actions, a draft constitutional amendment on the issue, and the establishment of the Special Prosecutor's Office to investigate the murders of women that fell within the federal jurisdiction. [FN396]

[FN396] Cf. Report on Mexico produced by CEDAW, supra note 64, folios 1980 and 1981.
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363. The Tribunal observes that the testimonial and expert evidence presented by the representatives mentions, first, that this transfer should have occurred owing to the lack of technical capacity of the Chihuahua authorities. The Court has not found any arguments regarding domestic law that allow it to examine the attribution of jurisdiction to the federal jurisdiction as a result of the irregularities found in this case. Second, no arguments have been submitted on the grounds that attributed jurisdiction to the federal jurisdiction, apart from the presumption that the impunity in the case implies the participation of public officials or organized crime. In addition, no arguments were provided concerning how the transfer to the federal jurisdiction functions. In brief, the representatives failed to present arguments on evidence and applicable domestic law that would allow the Court to examine how the failure to transfer the crimes and to apply the legal measures corresponding to organized crime contributed to the ineffectiveness of the judicial proceedings.

(c) Alleged irregularities relating to the fragmentation of the cases and the failure to investigate them in context

364. The representatives alleged that the "individualization of the investigations into the murders" becomes a "failure to seek the truth and […] justice for the victims." They indicated that "it is hardly credible that just one individual […] can be involved" in the murder "and that it has no connection whatsoever to the murders of the other seven women." They added that "it is implausible" that this individual "by himself […] killed Esmeralda, disposed of her in a place where there were another seven bodies in similar circumstances and did something to accelerate the decomposition process […] in the upper part of [her] body." Furthermore, they alleged that "the case sub judice cannot be examined out of the context of the situation of serious and systematic abuse against girls and women present in Ciudad Juárez for the last 16 years."

365. The State indicated that "the common element in the three cases is the discovery of the bodies in the same field" and affirmed that "the circumstances of the cases were specifically examined" from this perspective; however, "in the context of the investigation, the cases were dealt with individually without disregarding other possible common characteristics, but also

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without insisting on the connections between them," owing to the fact that "each case had specific characteristics that meant that it was not possible to investigate them together, because of the possibility of failing to distinguish different elements, which would ultimately have had a negative effect on the results." In addition, the State indicated that "[a]ccording to crime investigation methodology, inquiries are never begun based on the assumption that two cases are similar, as this would constitute a subjective distortion of the analysis."

366. The Court's jurisprudence has indicated that certain lines of inquiry, which fail to analyze the systematic patterns surrounding a specific type of violations of human rights, can render the investigations ineffective. [FN397]

[FN397] Cf. Case of the Rochela Massacre v. Colombia. Merits, Reparations and Costs. Judgment of May 11, 2007. Series C No. 163, paras. 156, 158 and 164.

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367. In this case, the Tribunal observes that, when the investigations were re-opened in March 2006, the Public Prosecutor's Office decided "for methodological reasons," to prepare a separate dossier for each of the eight victims found in the cotton field, "listing all the [respective] procedural activities." [FN398] According to witness Caballero Rodríguez, the reason for the individualization was "to establish specific lines of inquiry in each case," "independently of the single investigation file." [FN399]

[FN398] Cf. decision of March 9, 2006, of the Office of the Attorney General for the state of Chihuahua, Northern Zone, supra note 385, folio 10184.
[FN399] Testimony of witness Caballero Rodríguez, supra note 386.

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368. The representatives did not submit clear arguments or sufficient evidence to prove that the establishment of specific lines of inquiry for each of the eight Cotton Field cases could have adversely affected the investigations. However, the Court finds that, even though the individualization of the investigations could, in theory, even advance them, the State should be aware that all the murders took place in a context of violence against women. Consequently, it should adopt the necessary measures to verify whether the specific murder that it is investigating is related to this context. Investigating with due diligence requires taking into consideration what happened in other murders and establishing some type of connection with them. This should be carried out ex officio, without the victims or their next of kin being responsible for taking the initiative.

369. In this case, in the investigations into the three crimes, the Public Prosecutor's Office did not take any decision to try and relate the investigations to the patterns surrounding the disappearance of other women. This was ratified by the official of the Public Prosecutor's Office at the public hearing in this case. Based on the foregoing, the Tribunal finds that the State's argument that the only common feature of the eight cases is that the bodies appeared in the same

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area is unacceptable, and it is not admissible that, in the investigations into these murders, there was not even the slightest judicial assessment of the effects of the context.

370. What happened in this case is similar to what has been indicated previously as regards the context; that is, it can be observed that many investigations failed to consider attacks on women as part of a generalized phenomenon of gender-based violence. In this regard, the CNDH indicated in its 2003 report that the FEIHM was not examining "the phenomenon globally; rather each case has been dealt with individually, contrary to the legal possibilities, as if they were isolated, fully differentiated cases, instead of dealing with them integrally." [FN400] For her part, witness Delgadillo Pérez testified that "[t]here is no overall strategy in the investigation of the murders, based on the patterns of violence detected in each case." She added that "even though there is a special prosecutor's office, a certain number of cases are allocated to each official of the Public Prosecutor's Office" [FN401] and "there are no mechanisms for holding meetings to discuss investigation strategies and to determine the facts that need to be investigated, where the head of the prosecutor's office, the team of investigators, the judicial police and experts can get a global vision of what occurred in each crime." [FN402]

[FN400] Cf. CNDH, Informe Especial, supra note 66, folio 2235.
[FN401] Cf. testimony of witness Delgadillo Pérez, supra note 187, folio 3481.
[FN402] Cf. testimony of witness Delgadillo Pérez, supra note 187, folio 3481.

4.2.2.5. Alleged failure to punish public officials implicated in irregularities in this case

371. The representatives alleged that some of the officials who were implicated in irregularities, omissions and negligence in this case continue working in the Office of the Attorney General for the state of Chihuahua; others only received administrative sanctions of a "very limited scope," and the rest were neither investigated nor sanctioned.

372. The State indicated that, starting in October 2004, it examined the case files of the murders of 255 women in Ciudad Juárez, in order to review the actions of public officials in the investigation procedures. It alleged that it had filed 20 actions against public officials before the criminal courts, and 62 administrative proceedings before the government's internal control body (Secretariat of the Office of the Comptroller of the state of Chihuahua). As a result of these administrative proceedings, 15 officials were barred from holding office, five dismissed, three suspended and two received a warning. Currently, 12 administrative proceedings are ongoing.

373. In other cases, the Tribunal has referred to the fact that, in some countries, judicial disciplinary bodies accord considerable symbolic value to the message of censure transmitted by this type of sanction of public officials and members of the armed forces. [FN403] Additionally, the Court emphasizes the importance of disciplinary procedures in order to control the actions of said public officials, particularly when the human rights violations conform to generalized and systematic patterns.

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[FN403] Cf. Case of the "Mapiripán Massacre" v. Colombia, supra note 252, para. 215.
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374. Regarding the relationship of disciplinary actions with the right of access to justice, the Tribunal has indicated that disciplinary proceedings should determine the circumstances in which the violation of the functional obligation was committed that led to the breach of international human rights law. [FN404]

[FN404] Cf. Case of the Rochela Massacre v. Colombia, supra note 397, para. 207.
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375. In this case, the final report of the Office of the Special Prosecutor for the Investigation of the Murders of Women in the Municipality of Juárez included a list of the public officials who intervened in 139 judicial proceedings related to said homicides, as well the number of those who had incurred possible criminal or administrative responsibility in each case. However, this list does not include the three murders in the instant case. [FN405] In addition, the State presented a report on the officials who were sanctioned, indicating the name of the official and the case file in which he or she is attributed possible responsibility, as well as the procedural stage of the case. Nevertheless, the Court also observes that this second list does not mention officials who have been investigated for the irregularities committed in the investigation into what happened to Mss. Herrera, González and Ramos. [FN406]

[FN405] Cf. Office of the Special Prosecutor for the Investigation of Crimes related to the Murders of Women in Ciudad Juárez, Informe Final, supra note 87, folios 14881 to 14892.
[FN406] Cf. Office of the Attorney General of the state of Chihuahua, Informe de Funcionarios Sancionados, issued on April 27, 2009 (case file of attachments to the answer to the application, volume XLIX, attachment 5, folios 17319 to 17346).
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376. Similarly, a brief submitted by the representatives to the Attorney General for the state of Chihuahua included a list of 25 public officials who, it alleged, should be investigated for various omissions, irregularities and negligence related to the Cotton Field case. [FN407] The State did not provide any arguments with regard to the accusations made by the representatives in this brief.

[FN407] Cf. denunciation of facts submitted by the Asociación Nacional de Abogados Democráticos A.C. on June 5, 2007 (case file of attachments to the application, volume X, attachment 92, folios 3546 to 3588).
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377. The Tribunal emphasizes that administrative or criminal sanctions play an important role in creating the appropriate type of capability and institutional culture deal with factors that explain the context of violence against women established in this case. If those responsible for

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such serious irregularities are allowed to continue in their functions or, worse still, to occupy positions of authority, this may create impunity together with conditions that allow the factors that produce the context of violence to persist or deteriorate.

378. Based on the information available in the case file before the Court, the Tribunal finds that none of the officials supposedly responsible for the negligence that occurred in the instant case has been investigated. Specifically, the serious irregularities that occurred in the investigation of those responsible and in the handling of the evidence during the first stage of the investigation have not been clarified. This emphasizes the defenselessness of the victims, contributes to impunity, and encourages the chronic repetition of the human rights violations in question.

4.2.2.6. Alleged denial of access to the case file, and delays or refusal of copies of the file

379. The Commission alleged that the next of kin "have not had access to the case files" and have not been allowed to photocopy it. However, the Commission did not clarify the dates or provide arguments concerning the evidence in this regard.

380. The representatives alleged that "access to the [case file] has been denied systematically." They stated that, in December 2004, the Chihuahua Attorney General promised to hand over a copy of the case files, but this was not done. They affirmed that the same request was made in writing in 2005, 2006 and 2007, but they never received an answer. Nevertheless, they did not provide copies of these requests.

381. The representatives also alleged that, on August 4, 2006, they met with the state Attorney General and with the EAAF and asked them for a copy of the investigations conducted up until that time. They affirmed that the copies were delivered to one of the mothers a month later; but they were incomplete. Consequently the missing copies were requested; but no reply was received. They indicated that, on September 13, 2006, the next of kin requested "copies of the case file or permission to read them at the Prosecutor's Office. [The competent authority] refused either of these options, arguing that investigative actions were being incorporated owing to some recent events related to the murders." The representatives added that they requested the case file in writing on at least six occasions, but this was refused based on the argument that "investigations are underway" and that "the right of the victims to examine their own case files cannot be given priority over the actions of the investigating authorities." The Court observes that the representatives did not provide any arguments as to whether domestic law regulates this type of restriction of access to information; how these possible restrictions would have functioned in the instant case, and why these possible restrictions are unjustified or disproportionate.

382. In addition, the representatives indicated that they requested copies of the case file from the Office of the Deputy Attorney General for the Investigation of Organized Crime and received the response that "they could not be given access to the case file because, when organized crime is being investigated, the information is confidential." They added that this case file "is kept in utmost secrecy." The Tribunal observes that no arguments were submitted on domestic law regulating restrictions in access to information on investigations into organized crime.

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383. According to the representatives, the impossibility of accessing the case file prevented them from "knowing what progress had been made in the investigations and the lines of inquiry that the authorities were following to attribute responsibility to those probably responsible for the facts"; moreover, it did not allow the next of kin to "exercise their constitutional right to contribute to the investigations and, if appropriate, to provide support to the decisions of the Public Prosecutor's Office." The Court observes that no arguments were submitted on how domestic law regulates this right to contribute to the investigations.

384. The State affirmed that it "had provided [the victims' next of kin with] all the information concerning the case files" and that they "and their authorized representatives, according to the case-file, have access to the investigations at all time."

385. Witness Caballero Rodríguez indicated that the victims' next of kin have regular access to the investigation file, and can gain access to it, read it and photocopy it. He indicated that "the next of kin of [Laura Berenice Ramos] had access to the case file through an intervener representative"; the mother of Claudia Ivette González "has contacted him twice [and] requested reports from the case file, including certified copies" and, in the case of Esmeralda Herrera, "[the] intervener [...] has not had recourse [to the Public Prosecutor's Office] for information in this regard." Additionally, he noted that the intervener in the case of Claudia Ivette González was recently given "all the documents in the case file." [FN408]

[FN408] Testimony given by witness Caballero Rodríguez, supra note 386.

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386. The Tribunal notes that the evidence with which it has been provided includes two decisions denying copies. One of them establishes that "these copies [...] will be provided," but advises that "at present it is not possible to process the request because the case file is being reviewed in the city of Chihuahua" and states that, when the case file is returned, "the request will be processed and the copies required will be delivered as soon as possible." [FN409] The other decision indicates that, according to the case file, the intervener who requested the copies is not "empowered to act as a representative." [FN410] Other similar requests for copies and decisions on providing copies are included. [FN411]

[FN409] Cf. decision issued by an official of the Public Prosecutor's Office attached to the Joint Agency to Investigate and Prosecute Murders of Women, of May 3, 2007 (case file of attachments to the pleadings and motions brief, volume XXIV, attachment 34, folios 8480).

[FN410] Cf. decision issued by an official of the Public Prosecutor's Office on January 30, 2008 (case file of attachments to the answer to the application, volume XXXV, attachment 50, docket II, volume IV, folio 12982).

[FN411] In the case of Claudia Ivette González, copies were requested on April 1, 2002, May 2, 2007, January 29 and November 4, 2008, and February 12, 2009, and copies were issued on April 1, 2002, and February 12 and March 11, 2009 (Cf. case file of attachments to the answer to the application, volume XXXII, attachment 50, docket II, volume I, folio 11122; volume XXIV,

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attachment 34, folios 8478 and 8479; volume XLVIII, attachment 4b, folio 17313; volume XLVIII, folio 17193, and volume XLVIII, folio 17208). In the case of Laura Berenice Ramos copies were requested on February 26, 2002, March 6 and May 3, 2007, and January 29, 2008, and copies were issued on February 26, 2002, and June 1, 2007 (Cf. case file of attachments to the answer to the application, volume XXXVI, attachment 50, docket III, volume I, folio 13069; volume XXIV, attachment 34, folios 8481; volume XXXVI, attachment 50, docket III, volume I, folio 13129; case file of attachments to the pleadings and motions brief, volume XXIV, attachment 34, folios 8477; case file of attachments to the answer to the application, volume XXXVI, attachment 50, docket III, volume I, folio 13070, and attachment 50, docket III, volume I, folio 13130.) In the case of Esmeralda Herrera copies were issued on March 11, 2002 (case file of attachments to the answer to the application, volume XXX, attachment 50, folio 13171).
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387. To conclude, the Court finds that it has not received sufficient evidence concerning the denial of access to the case file and to photocopies of the file. Moreover, no arguments have been submitted concerning the domestic legislation that regulates the confidentiality of the preliminary inquiry and the alleged "right to contribute" to the investigations. In addition, no explanation has been provided about the specific impact of each denial or delay on the exercise of their rights as the civil party. Consequently, based on all the above, the Tribunal does not have sufficient elements to examine these allegations.

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388. In conclusion, the Court accepts the acknowledgement of responsibility for the irregularities committed during the first stage of the investigations. However, the Tribunal has found that, during the second stage, said deficiencies were not entirely rectified. The irregularities in the handling of evidence, the alleged fabrication of guilty parties, the delay in the investigations, the absence of lines of inquiry that took into account the context of violence against women in which the three women were killed, and the inexistence of investigations against public officials for alleged serious negligence, violate the right of access to justice and to effective judicial protection, and the right of the next of kin and of society to know the truth about what happened. In addition, it reveals that the State has failed to comply with ensuring the rights to life, personal integrity and personal liberty of the three victims by conducting a conscientious and competent investigation. The foregoing allows the Court to conclude that impunity exists in the instant case and that the measures of domestic law adopted have been insufficient to deal with the serious human rights violations that occurred. The State did not prove that it had adopted the necessary norms or implemented the required measures, in accordance with Article 2 of the American Convention and Article 7(c) of the Convention of Belém do Pará, that would have permitted the authorities to conduct an investigation with due diligence. This judicial ineffectiveness when dealing with individual cases of violence against women encourages an environment of impunity that facilitates and promotes the repetition of acts of violence in general and sends a message that violence against women is tolerated and accepted as part of daily life.

389. Based on the foregoing, the Tribunal finds that the State failed to comply with its obligation to investigate – and, consequently, with its obligation to guarantee – the rights

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embodied in Articles 4(1), 5(1), 5(2) and 7(1) of the American Convention, in relation to Articles 1(1) and 2 thereof and to Article 7(b) and 7(c) of the Convention of Belém do Pará, to the detriment of Claudia Ivette González, Laura Berenice Ramos Monárrez and Esmeralda Herrera Monreal. For the same reasons, the State violated the rights of access to justice and to judicial protection, embodied in Articles 8(1) and 25(1) of the American Convention, in relation to Articles 1(1) and 2 thereof and to Articles 7(b) and 7(c) of the Belém do Para Convention, to the detriment of the three victims' next of kin identified in paragraph 9 supra.

4.3. Obligation not to discriminate: violence against women as discrimination

390. The Commission indicated that, "[i]n order to appreciate the scope of the obligation of due diligence in this case, it is essential to understand the relationship between violence against women and the discrimination that perpetuates it." According to the Commission, "the investigation into these murders was influenced by discriminatory attitudes towards women by state officials."

391. The representatives indicated that "over and above gender-based violence, the girls and women of Ciudad Juárez suffer a double discrimination, because the humble origins of Claudia, Laura and Esmeralda, and of the other girls and women who have been murdered or reported missing, and of their mothers and their next of kin, also generates discrimination against a social class." They added that the damage caused by the facts of the case "is reinforced because its purpose is to preserve the inequality of women and discrimination towards them" and that, "added to the other situations of vulnerability, the damage is exacerbated because the impunity created and encouraged by the Mexican State supports and legitimizes the patterns of violence and discrimination against women."

392. The State indicated that "the investigation into the disappearances and murders of Mss. González, Herrera and Ramos, does not reveal any element that could allow it to be supposed that there was any discrimination." It added that it "had established the necessary mechanisms to ensure that all persons under its jurisdiction […] can exercise […] their rights without being subjected to discrimination of any kind." Nevertheless, before the Court, it acknowledged that the murders of women in Ciudad Juárez are influenced by "a culture of discrimination against women."

393. Given the dispute between the parties and the ambiguity of the State's acquiescence, the Tribunal will analyze whether the obligation not to discriminate contained in Article 1(1) of the Convention was fulfilled in this case.

394. From a general point of view, CEDAW has defined discrimination against women as "any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field." In the Inter-American sphere, the Convention of Belém do Pará indicates that violence against women is "a manifestation of the historically unequal power relations between women and men" and

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recognizes that the right of every woman to a life free of violence includes the right to be free from all forms of discrimination.

395. CEDAW has stated that the definition of discrimination against women "includes gender-based violence, that is, violence that is directed against a woman [i] because she is a woman or [ii] that affects women disproportionately." CEDAW has also indicated that "gender-based violence is a form of discrimination that seriously inhibits women's ability to enjoy rights and freedoms on a basis of equality with men." [FN412]

[FN412] Cf. CEDAW, General recommendation 19: Violence against women, supra note 268, paras. 1 and 6.

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396. In the case of Opuz v. Turkey, the European Court of Human Rights stated that "the State's failure to protect women against domestic violence breaches their right to equal protection of the law and that this failure does not need to be intentional." The European Court considered that even though the general and discriminatory judicial passivity in Turkey was unintentional, the fact that it mainly affected women allowed it to conclude that the violence suffered by the applicant and her mother could be regarded as gender-based violence which is a form of discrimination against women. To reach this conclusion, the European Court applied the principle according to which once it is shown that the application of a specific rule clearly affects a higher percentage of women than men, the State must show that this is the result of objective factors unrelated to any discrimination on grounds of gender. The European Court found that the applicant lived where there was the highest number of reported victims of domestic violence, and that the victims were all women. Moreover, the great majority of these women were of the same origin, and the women victims faced problems when they reported the domestic violence, such as the fact that the police did not investigate the complaints, but assumed that the violence was a "family matter." [FN413]

[FN413] ECHR, Case of Opuz v. Turkey, Judgment of 9 June 2009, paras. 180, 191 and 200.

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397. In the case of the Miguel Castro Castro Prison v. Peru, the Tribunal indicated that women detained or arrested "must not be the object of discrimination, and they must be protected from all forms of violence or exploitation"; that they "must be supervised and checked by female officers"; and that "special conditions" should be provided for pregnant and nursing women. Discrimination includes "violence directed against a woman because she is a woman, or that affects her in a disproportionate manner"; this includes "acts that inflict injuries or suffering of a physical, mental or sexual nature, threats of committing those acts, coercion and others forms of deprivation of freedom." [FN414]

[FN414] Cf. Case of the Miguel Castro Castro Prison v. Peru, supra note 248, para. 303.

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398. In the instant case, the Court finds that the State informed CEDAW that the "culture of discrimination" against women influenced the fact that "the murders [of women in Ciudad Juárez] were not perceived at the outset as a significant problem requiring immediate and forceful action on the part of the relevant authorities." In addition, the State also indicated that this culture of discrimination against women was "based on the erroneous idea that women are inferior" (supra para. 132).

399. The Tribunal considers that these statements, which the State provided as evidence, concur with its acknowledgement of responsibility, in the sense that, in Ciudad Juárez there is a "culture of discrimination" that influenced the murders of women in Ciudad Juárez. Furthermore, the Court observes that, as established above, several international reports made a connection between the violence against women and the discrimination against women in Ciudad Juárez.

400. In addition, it has been established that, when investigating this violence, some authorities mentioned that the victims were "flighty" or that "they had run away with their boyfriends," which, added to the State's inaction at the start of the investigation, allows the Tribunal to conclude that, as a result of its consequences as regards the impunity in the case, this indifference reproduces the violence that it claims to be trying to counter, without prejudice to the fact that it alone constitutes discrimination regarding access to justice. The impunity of the crimes committed sends the message that violence against women is tolerated; this leads to their perpetuation, together with social acceptance of the phenomenon, the feeling women have that they are not safe, and their persistent mistrust in the system of administration of justice. In this regard, the Court underscores the words of the Inter-American Commission in its thematic report on "Access to Justice for Women Victims of Violence," to the effect that:

The influence exerted by discriminatory socio-cultural patterns may cause a victim's credibility to be questioned in cases involving violence, or lead to a tacit assumption that she is somehow to blame for what happened, whether because of her manner of dress, her occupation, her sexual conduct, relationship or kinship to the assailant and so on. The result is that prosecutors, police and judges fail to take action on complaints of violence. These biased discriminatory patterns can also exert a negative influence on the investigation of such cases and the subsequent weighing of the evidence, where stereotypes about how women should conduct themselves in interpersonal relations can become a factor. [FN415]

[FN415] IACHR, Access to justice for women victims of violence in the Americas, OEA/Ser.L/V/II. Doc. 68, January 20, 2007 (case file of attachments to the application, volume VII, attachment 2, folio 1822).

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401. Similarly, the Tribunal finds that gender stereotyping refers to a preconception of personal attributes, characteristics or roles that correspond or should correspond to either men or women. Bearing in mind the statements made by the State (supra para. 398), the subordination of women can be associated with practices based on persistent socially-dominant gender stereotypes, a situation that is exacerbated when the stereotypes are reflected, implicitly or

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explicitly, in policies and practices and, particularly, in the reasoning and language of the judicial police authorities, as in this case. The creation and use of stereotypes becomes one of the causes and consequences of gender-based violence against women.

402. The Court therefore finds that, in the instant case, the violence against women constituted a form of discrimination, and declares that the State violated the obligation not to discriminate contained in Article 1(1) of the Convention, in relation to the obligation to guarantee the rights embodied in Articles 4(1), 5(1), 5(2) and 7(1) of the American Convention to the detriment of Laura Berenice Ramos Monárrez, Esmeralda Herrera Monreal and Claudia Ivette González; as well as in relation to the access to justice established in Articles 8(1) and 25(1) of the Convention, to the detriment of the victims' next of kin identified in paragraph 9 supra.

5. The rights of girls, Article 19 of the American Convention

403. The Commission alleged that the State's "duty to protect the human rights of Laura Berenice Ramos and Esmeralda Herrera Monreal was enhanced, for two reasons: their condition as minors, and the obligation to adopt special measures of protection, prevention and guarantee." However, according to the Commission, "[n]ot only did the state agencies charged with enforcing the law fail to act to prevent acts such as those herein described, and to identify and punish those responsible, but those state agencies specifically charged with the protection of children did not intervene in any way, either to prevent these facts, or to propose some kind of solution for the case."

404. According to the representatives, Esmeralda Herrera and Laura Berenice Ramos "were murdered eight years after the first murders of girls and women in Ciudad Juárez were recorded. The State had the obligation to adopt special measures of protection to ensure their life, liberty and personal integrity." They indicated that the State "had failed to adopt measures to prevent violence in the community and to guarantee full enjoyment of the fundamental rights of the child."

405. The State affirmed that it "complies with its obligation to protect children by adopting measures that correspond to their special situation of vulnerability." It also maintained that it had not incurred in international responsibility because "state agents had not participated directly in the murders […], and it had not been proved that the fact that the victims were minors had been a relevant factor"; also, because it has implemented "special measures to ensure the full exercise of the rights of the child."

406. As established previously, at the time of the facts, the public authorities were aware of a context of disappearances, violence and murders of young women and girls (supra para. 129).

407. The independent expert for the United Nations study on violence against children has stated that "[v]iolence against children takes a variety of forms and is influenced by a wide range of factors, from the personal characteristics of the victim and perpetrator to their cultural and physical environments." Economic development, social status, age, sex and gender are among the many factors associated with the risk of lethal violence. He also stated that "sexual violence

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predominantly affects those who have reached puberty or adolescence," and that girls face greater risk of this type of violence. [FN416]

[FN416] United Nations, Report of the independent expert for the United Nations study of violence against children, Paulo Sérgio Pinheiro, submitted pursuant to General Assembly resolution 60/231, A/61/299, 29 August 2006, paras. 25, 29 and 30.

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408. This Tribunal has established that boys and girls have special rights which give rise to specific obligations for the family, society and the State. Moreover, their status requires special protection that must be understood as an additional right that complements all the other rights that the Convention recognizes to each individual. [FN417] The prevalence of the best interest of the child must be understood as the need to satisfy all the rights of children and adolescents, which obligates the State and affects the interpretation of all the other rights of the Convention when a case concerns minors. [FN418] Furthermore, the State must pay special attention to the needs and rights of the alleged victims owing to their condition as girls who, as women, belong to a vulnerable group. [FN419]

[FN417] Cf. Juridical Condition and Human Rights of the Child. Advisory opinion OC-17/02 of August 28, 2002. Series A No. 17, paras. 53, 54 and 60; Case of the Gómez Paquiyauri Brothers v. Peru. Merits, Reparations and Costs. Judgment of July 8, 2004. Series C No. 110, para. 164, and Case of the Yean and Bosico Girls v. Dominican Republic. Preliminary Objections, Merits, Reparations and Costs. Judgment of September 8, 2005. Series C No. 130, para. 133.
[FN418] Cf. Juridical Status and Human Rights of the Child, supra note 417, paras. 56, 57 and 60, and Case of the Jean and Bosico Girls v. Dominican Republic, supra note 417, para. 134.
[FN419] Cf. CEDAW, General recommendation 24: Women and health, twentieth session, A/54/38/Rev.1, 1999, para. 6, and Case of the Jean and Bosico Girls v. Dominican Republic, supra note 417, para. 134.

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409. In this case, the Court finds that the State had the obligation to adopt all the positive measures necessary to ensure the rights of the disappeared girls. Specifically, the State had the obligation to ensure that they were found as soon as possible, once the next of kin had reported that they were missing; above all because the State was aware of the existence of a specific context in which girls were being disappeared.

410. Despite the existence of legislation for the protection of children, [FN420] together with specific state policies, [FN421] the Tribunal underscores that the evidence provided by the State does not show that, in this specific case, these measures translated into effective measures for initiating a prompt search, activating all resources to mobilize the different institutions and to deploy domestic mechanisms to obtain information to locate the girls rapidly and, once their bodies were found, to conduct the investigations, and prosecute and punish those responsible effectively and promptly. In summary, the State did not prove that it has proper reaction

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mechanisms or public policies that would provide the institutions involved with the necessary means to ensure the rights of the girls.

[FN420] Cf. Political Constitution of the United Mexican States, Article 4 (case file of attachments to the answer to the application, attachment 43, volume XXVIII, folio 9816) and Law for the Protection of the Rights of Girls, Boys and Adolescents, published in the Federation's Official Gazette on May 29, 2000, Articles 2 to 5 (case file of attachments to the answer to the application, attachment 103, volume XLIII, folio 16049).
[FN421] Such as the creation of the National Council for Children and Adolescents (case file of attachments to the answer to the application, attachment 104, volume XLIII, folios 16065 to 16068); the National System for the Integral Development of the Family (merits case file, volume III, folio 1082); the National Action Plan to Prevent, Deal With and Eliminate the Commercial Sexual Exploitation of Children (merits case file, volume III, folio 1082), and the Campaign to Prevent Child Abuse (merits case file, volume III, folio 1085).
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411. Consequently, this Court finds that the State violated the right embodied in Article 19 of the Convention, in relation to Articles 1(1) and 2 thereof, to the detriment of the girls Esmeralda Herrera Monreal and Laura Berenice Ramos Monárrez.

6. Right to humane treatment of the victims' next of kin

412. The Tribunal has determined that there is no longer a dispute concerning the alleged violations of the right embodied in Article 5(1) of the Convention to the detriment of the victims' next of kin, based on the violations accepted by the State during the "first stage" of the investigations (supra para. 20). Despite this, the Court finds it appropriate to define the meaning and scope of these violations. In addition, it will determine whether Article 5 of the Convention was violated by facts other than those acknowledged by the State. In this regard, the Tribunal will examine the effect on the mental and moral integrity of the victims' next of kin as a result of what happened to the latter, the investigations conducted to determine what occurred, and the treatment that the authorities accorded to the next of kin and to the victims' remains. Subsequently, it will examine the alleged violations owing to acts of harassment, intimidation, and threats against the victims' next of kin.

6.1. Suffering of the next of kin because of what happened to the victims and because of their search for the truth

413. The Commission alleged that the mental and moral integrity of the victims' mothers were affected as a direct consequence of the sudden disappearance of their daughters, the ignorance of their whereabouts for a considerable period of time, and the absence of an investigation into what happened, as well as owing to the treatment they received from the authorities, ranging from indifference to hostility.

414. The representatives alleged that "[t]he disappearance, torture and murder [of the victims], the destruction of their remains, and the absence of an appropriate, timely and effective response

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by the authorities to clarify the circumstances of their deaths, caused considerable damage to the physical and mental health of the next of kin, their quality of life and life project and their feeling of wellbeing, and significantly violated their sense of dignity, security and membership in a community where the rights of the victims are recognized and respected, placing a limit on what they expect from life."

415. On other occasions, the Tribunal has declared that the next of kin of the victims of human rights violations may, in turn, be victims. [FN422]

[FN422] Cf. Case of Bámaca Velásquez v. Guatemala. Merits. Judgment of November 25, 2000. Series C No. 70, para. 160; Case of Escué Zapata v. Colombia, supra note 309, para. 77, and Case of Anzualdo Castro v. Peru, supra note 30, para. 105. Nevertheless, in its judgment in the Valle Jaramillo case, the Court established that suffering could not be presumed as regards the next of kin who did not belong to the nucleus of "direct family members," but that, in such cases, the Court must examine whether there were, inter alia, ties of affection, suffering, or whether they had taken part in the search for truth. In the instant case, the State acquiesced as regards the alleged suffering of the next of kin, therefore the Tribunal will not apply such analysis in the present case (Cf. Case of Valle Jaramillo et al. v. Colombia. supra note 49, para. 119).

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416. In the case of Laura Berenice Ramos, her mother testified before the Court that:

Five months passed before they could show me my daughter's body, and it was not a body, it was bones […] and they always told me that I should be accompanied by a doctor or a dentist, and I took them with me and we were never allowed to see the body.
[…]
I needed to know whether my daughter was alive [or] dead [and] I needed to identify that body, so I asked the deputy prosecutor if I recognized the body would he return it to me as a birthday present, and he told me that it was very cruel, but yes. On March 20, I was able to go in and identify the bones, and they told me that I could do whatever I wanted with them. [FN423]
[…]
[The investigations conducted by the authorities] were useless; even though I suggested specific lines of inquiry, they never paid any attention to me; they tried to give us minimum assistance that did nothing to alleviate our anguish, everything I had to struggle with to continue investigating […].
The damage was not caused simply by my daughter's disappearance; the whole family was damaged: my children, Claudia Ivonne and Jorge Daniel, they need a lot of psychological help, because they also lost part of their lives; […] we are no longer complete; […] I don't need a pat on the back out of pity, I needed them to look for my daughter, for them to give me my daughter, to confirm me whether or not it was my daughter. Now I demand, […] compensate me for my life, because my life is no longer the same; this is what I ask these people who I know have the power to be able to make them pay for all the damage, everything that has been done to us. [FN424]

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[FN423] Cf. testimony of Mrs. Monárrez at the public hearing, supra note 183. See also testimony of Benita Monárrez Salgado before the official of the Public Prosecutor's Office of the Office of the Attorney General for the state of Chihuahua on July 24, 2006 (case file of attachments to the answer to the application, volume XXIX, attachment 46, folio 10046).
[FN424] Cf. testimony of Mrs. Monárrez, supra note 183.
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417. In her testimony before the Court, Esmeralda Herrera's mother stated:

The authorities have had a very bad attitude […] they never even took the time to call us, in […] eight years, to tell me how the investigations were going; […] I've had to find out everything from the media.
[…]
The procedure to identify my daughter was performed four years after I had asked for an exhumation and a DNA test […]. The process was very difficult for me and my family because we had to re-experience a funeral, an exhumation; I tried to take my life several times because it had no meaning, because I could not obtain justice […]. My younger children tried to take their own life; they were interned. My daughter, who was 11 years old at that time, […] drew flyers (pesquisas) and stuck them up all round the house […] because the authorities never gave me a flyer.
[…]
I spent many nights imagining what they did to my daughter; how they raped her, how they tortured her. It was terrible; I couldn't sleep imagining this. Also, since I was waiting for her, I dreamed and hoped that my daughter would appear; that one day when I returned from work, they would say, just as they told me that Esmeralda had not appeared, […] here's Esmeralda. Esmeralda has reappeared.

418. The mother of Claudia Ivette González testified before the Court that:

I was greatly affected; I fell ill, my sister also fell ill, and I also had a son ill with cancer; he was very affected when we found the body; two months later […] he died;[…] [the authorities] haven't helped me at all, they haven't even made any progress […]. They haven't shown any respect for us […] because they haven't found the guilty individuals, and many young girls are still disappeared […]. I no longer have any confidence in them […]. I have daughters, and I am afraid that it could happen again because the authorities are doing nothing […].
In order to get information from them […] we used to go every day and […] sometimes […] the doors were closed and they did not receive us; the journalists were the ones that gave us strength.
[…] They conducted a DNA test on my daughter and me a first time, and then three months later, they came to do another DNA test. Once again they sent it from Mexico and I said to them: "you had already done one, where is it?" [They answered] "No madam it was lost, it was spoiled" […].
The most difficult thing is the feeling of helplessness; [I need] courage for my other children, I don't want this to happen to me again. [FN425]

[FN425] Cf. testimony of Mrs. González, supra note 183.

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419. The body of evidence reveals that, following the disappearance of the three victims, their next of kin had to take different measures to look for them due to the inactivity of the authorities, who also made derogatory comments about the young women, causing suffering to their next of kin. Thus, the expert reports indicated that the opinions given by the authorities, to the effect that the young women were to blame for their disappearance owing to their behavior, "caused the next of kin confusion and anguish, especially for those who knew that their daughter's life did not correspond to these descriptions." [FN426] Furthermore, "[t]he mothers insist in the pain and suffering experienced owing to the negligence of the authorities and the callousness with which they have been treated, underscoring […] how their anguish was aggravated by this mistreatment, and by being dissuaded from filing complaints that would perhaps have allowed [the victims] to be found alive and by the absence of information during the whole process." [FN427]

[FN426] Cf. statement made before notary public by expert witness Lira Kornfeld on April 21, 2009 (merits case file, volume XI, folio 3340).
[FN427] Cf. testimony of expert witness Lira Kornfeld, supra note 426, folio 3340.

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420. In addition, the mental and emotional health of the next of kin suffered owing to the lack of diligence in determining the identity of the remains that were found and the absence of information on the measures taken by the authorities. Thus, "[t]he failure to identify the bodies [during several years] has prevented the families from going through the rites that accompany the death and burial of a loved one, brusquely altering their mourning process. They have been unable to heal their wounds, obliged to live with a permanent anguish that is revived each time the media announces the discovery of more bodies." [FN428]

[FN428] Cf. Amnesty International, Intolerable killings, supra note 64, folio 2282. Likewise, IACHR, The Situation of the Rights of Women in Ciudad Juárez, supra note 64, folio 1745.

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421. The absence of investigations to try and discover the truth, to prosecute and, if applicable, to punish those responsible, "exacerbates the feeling of helplessness, lack of protection and defenselessness of these families." [FN429]

[FN429] Cf. testimony of expert witness Lira Kornfeld, supra note 426, folio 3339.

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422. The State acknowledged that "the irregularities admitted by the authorities at the beginning of the investigations into the [three] murders […] affected the next of kin directly […]. Consequently, the State acknowledges and accepts that the right to mental and moral integrity of the next of kin was violated."

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423. The State defined the scope of its acquiescence as follows:

(i) When the bodies […] were found, the authorities did not take sufficient care to safeguard the scene of the facts and the other elements that were found there, elements that constitute material evidence of the murders. This negligence obstructed and led to mistakes in the initial investigations of the murders, which caused additional suffering to the next of kin of the victims;
(ii) The mistakes and omissions in compiling the case files also contributed to the delay in the investigations to find those responsible for the killings. This issue affected the next of kin, because they were uncertain about the conscientious, impartial and exhaustive nature of the investigations into the murders of the victims;
(iii) The re-opening of the investigations into the murders was due, in part, to the need to identify the victims, because the next of kin had expressed a reasonable doubt about the identification analyses that had been performed, and it acknowledged "the suffering of the mothers […] when they had to identify the bodies of their daughters, which had suffered a significant degree of decomposition that made them almost unrecognizable";
(iv) The State is aware of the suffering caused to the victims' next of kin by the fact that, to date, those responsible for murdering Mss. González, Herrera and Ramos, have not been identified, and
(v) At the beginning of the investigations, the next of kin were not kept properly informed of the inquiries that the authorities were making and the measures they were taking to identify and locate those responsible. The State censured the insensitive attitude shown by the officials of the Office of the Attorney General for the state of Chihuahua toward the next of kin. It also censured the insensitivity of the authorities when returning the bodies of Mss. González, Herrera and Ramos, to their next of kin and regretted the statements made by public officials concerning the murders of Mss. González, Herrera and Ramos, which harmed the moral and mental integrity of their next of kin.

424. Based on the above, the Tribunal finds that the violation of the personal integrity of the victims' next of kin stems from the circumstances suffered due to all the process that followed the disappearances of Esmeralda Herrera Monreal, Claudia Ivette González and Laura Berenice Ramos Monárrez, and also by the general context in which the facts occurred. The irregular and deficient actions of the state authorities when trying to discover the whereabouts of the victims after their disappearance had been reported; the lack of diligence in determining the identity of the remains, the circumstances and causes of the deaths; the delay in the return of the bodies; the absence of information on the evolution of the investigations, and the treatment accorded the next of kin during the whole process of seeking the truth has caused them great suffering and anguish. In the Court's opinion, all the foregoing constitutes degrading treatment contrary to Article 5(1) and 5(2) of the American Convention, in relation to Article 1(1), to the detriment of Irma Monreal Jaime, Benigno Herrera Monreal, Adrián Herrera Monreal, Juan Antonio Herrera Monreal, Cecilia Herrera Monreal, Zulema Montijo Monreal, Erick Montijo Monreal, Juana Ballín Castro, Irma Josefina González Rodríguez, Mayela Banda González, Gema Iris González, Karla Arizbeth Hernández Banda, Jacqueline Hernández, Carlos Hernández Llamas, Benita Monárrez Salgado, Claudia Ivonne Ramos Monárrez, Daniel Ramos Monárrez, Ramón Antonio Aragón Monárrez, Claudia Dayana Bermúdez Ramos, Itzel Arely Bermúdez Ramos, Paola Alexandra Bermúdez Ramos and Atziri Geraldine Bermúdez Ramos.

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6.2. Threats, intimidation and harassment suffered by the next of kin

425. The Commission alleged that "the mothers of Claudia Ivette, Esmeralda and Laura Berenice […] have been victims of continual harassment, mistreatment, and intimidation by state officials and authorities since they reported the disappearances to the present date." According to the Commission, "in this case, following the disappearance of their daughters, the quest for justice, at times, resulted in the mothers and some members of the families becoming victims of harassment and threats that jeopardized their life and integrity."

426. The representatives affirmed that "faced with the demand for justice and investigation by the mothers of Esmeralda, Laura, Claudia, and their next of kin, the response of the Mexican State was intimidation, harassment, systematic dissuasion, and even violence against them: directly towards their children, or against their lawyers."

427. The State emphasized that "it had not found any element that would reveal acts of public disparagement, harassment or discrimination against the next of kin of these three women during the investigations into the disappearance, the discovery of the remains or the inquiries to find those responsible for the murder of Claudia Ivette González, Esmeralda Herrera Monreal and Laura Berenice Ramos Monárrez." The State assured that it "had not found any element that would reveal false accusations or threats made by public officials against the next of kin of the three victims. To the contrary, the State has informed the Tribunal of all the remedies available in domestic legislation to the next of kin of Mss. González, Herrera and Ramos in order to report possible accusations or threats. However, since the next of kin have not come forward to report these accusations, the authorities have no grounds for investigating them and punishing those responsible.

428. Mrs. Monárrez testified before the Court as follows:

[Because I took one of my daughter's bones], we began to be followed; cars, identified by both my daughter Claudia Ivonne and me, followed us everywhere; official vehicles from the Office of the Attorney General of the Republic.
[…]
I had to leave my country because, on one occasion, they tried to run over my two youngest children and me; and I had to request asylum in the United States because, because after they did not look for my daughter, I founded an organization called Integración de Madres por Juárez […] We were being persecuted, even my daughter Claudia Ivonne; she had remained in Mexico when I went to ask for asylum. We went through a very difficult time. We were detained. I spent three weeks with my five-year-old son, who now has a problem. He cannot look at the authorities. He cannot look at anyone in uniform because he is frightened by them. My daughter Claudia remained in Mexico because they couldn't help all of us at the same time. She stayed with my grandchildren. They tried to take one of my girls, who was seven years old, from school. They put a gun to [Claudia's] head and told her to be quiet, […] to stop talking because, if not, they would kill her […].
[The authorities harassed us] because they could never buy me; not even with all the things they did to me to frighten me, […] that's why I left. […]

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I had to ask many people to help me. I had to sell food on the street. We had to sleep on the street. We had to be in a place with the people who live on the street. I don't think my family deserved this. I consider the authorities are to blame for forcing me to emigrate to protect the life of my children and my own life […]. I left on September 4, 2006, and my daughter […] last year, which was when she couldn't bear it anymore. […].
[The harassment took place] from the time my daughter disappeared; from then on, I felt as though my hands and feet were tied. [FN430]

[FN430] Cf. testimony given by Mrs. Monárrez, supra note 183.
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429. On July 9, 2007, Claudia Ivonne Ramos Monárrez, sister of Laura Berenice Ramos, testified before the Public Prosecutor's Office that:

On May 2, [2006] I filed a complaint about some vehicles and individuals who went to my house asking where I lived, who I lived with and what I did, and who were investigating my life […]. A complaint was filed before the [state] Attorney General and she gave express orders to an official, who took my statement, and everything was done with secrecy […]; to date nothing has been investigated. [Also] […] two months ago […] I submitted a written request for a copy of the complaint I had filed and I realized that it was not a complaint, [but that] my statement had been taken as testimony and attached to the case file […] of my sister, Berenice Ramos; […] [consequently] I ask again for an investigation into why the judicial officials and cars were in front of my house. [FN431]

[FN431] Cf. testimony of Claudia Ivonne Ramos Monárrez before the official of the Public Prosecutor's Office of the Office of the Attorney General of the state of Chihuahua on July 9, 2007 (case file of attachments to the application, volume X, attachment 91, folio 3544). In relation to this complaint, see also the request for a copy of the complaint of harassment made on August 25, 2006, by Claudia Ivonne Ramos Monárrez before the Special Prosecutor's Office for the Murders of Women on May 1, 2007 (case file of attachments to the answer to the application, volume XXXVI, folio 13128).
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430. The Ramos Monárrez family asked the United States authorities to grant them asylum. The judge who decided the request for political asylum based his decision, inter alia, on the testimony of several witnesses, who mentioned that:

There are several groups that have spoken out against the femicides. The groups have conducted protests and marches. One of the groups was Mothers Integration for Juárez, which was founded by Ms. Monárrez Salgado. [The deponent] attempted to attend one of the organization's meetings. Prior to arriving, the attendees were robbed by armed men and the meeting was cancelled; [FN432]
[…]

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The climate of fear and intimidation against people who speak out against the murders and the lack of investigations related to the murders of these young girls is clearly prevalent in Ciudad Juárez. [...] Mrs. Monárrez Salgado became one of the more vocal family members of the femicide victims in demanding that the police investigate these crimes. […She] publicly questioned police competency, their level of commitment in solving the murders, and openly discussed their possible direct involvement in the cover-up of the femicides. […] She participated in numerous national and international interviews with multiple radio, television, and newspaper mediums. […G]overnment officials or people closely connected to the government are behind the threats and intimidation, since they are most interested in silencing advocacy around the murders and critiques of the government's handling of the femicides. [FN433]

[FN432] Cf. United States Department of Justice, Executive Office for Immigration Review, written decision of the Immigration Court, April 13, 2009 (merits case file, volume XIII, folio 4015).
[FN433] Cf. written decision of the Immigration Court, supra note 432, folio 4023.

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431. Lastly, the same judge considered the testimony of the Ramos Monárrez family, and described it as "consistent and well supported by the documentary evidence." [FN434] Regarding the testimony of Mrs. Monárrez, he indicated that:

Through the media, Mrs. Mon[á]rrez Salgado publicly accused Mexican Government officials, including the Governor and the Attorney General of the Mexican State of Chihuahua, on being complicit in her daughter's death and subsequent deficient investigation. […]
After she identified her daughter's body, Ms. Mon[á]rrez Salgado began receiving threatening phone calls. The callers told her that if she continued to speak out, the callers would kill her or make her children disappear. The calls occurred on a continuous basis, however they intensified after the Inter-American Court accepted the Cotton Field Murders case.
One day while she was walking to a funeral, Ms. Mon[á]rrez Salgado noticed that a truck was following her. The truck revved its engine and drove quickly towards her. She was able [to] get out of the way. The truck circled the block and tried to hit her again. Ms. Mon[á]rrez Salgado was able to avoid the second attempt and the truck drove away. She then went to the funeral.
Upon returning from the funeral, she discovered that someone had broken into her home and gone through her files relating to the death of her daughter. Some of the documents were missing. A few weeks later, someone tried to break into her home for a second time.

[FN434] Cf. written decision of the Immigration Court, supra note 432, folio 4025.

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432. Claudia Ivonne Ramos Monárrez and Jorge Daniel Ramos Monárrez also testified before the immigration judge about specific acts of harassment which led them to feel threatened and that their lives were in danger, so that they requested the United States authorities to give them asylum, and this was granted. [FN435]

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[FN435] Cf. written decision of the Immigration Court, supra note 432, folios 4018 to 4020.
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433. The judge granted them asylum finding that "[o]ver the course of the past eight years, the Mon[á]rrez Salgado family has faced harassment, threats, and attacks on their lives that rise to the level of persecution. Each family member suffered individual incident that were sufficiently life threatening that would constitute persecution alone. However, it becomes clear that they have suffered persecution when one considers the cumulative effect of the years of intimidation, harassment, and physical attacks." [FN436]

[FN436] Cf. written decision of the Immigration Court, supra note 432, folios 4028 and 4029.
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434. Regarding the next of kin of Laura Berenice Ramos, the expert evidence provided to the proceedings before the Tribunal determined that they suffer constant fear owing to the dangers and the different threats they have experienced, reflected in acts that occurred in public places, which have jeopardized their safety and their integrity, and in the absence of a prompt and adequate response to their complaints by the authorities. They have also suffered feelings of loneliness and isolation, as a result of their growing lack of confidence in the authorities. [FN437]

[FN437] Cf. testimony of expert witness de la Peña Martínez, supra note 186, folio 3352.
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435. The file in the instant case includes information on the existence of a pattern of state conduct towards the next of kin of women victims of violence in Ciudad Juárez, consisting in depreciatory, disrespectful and even aggressive treatment when they try to obtain information about the investigations. [FN438] In most cases, this results in distrust and fear, so that they do not denounce the facts. The next of kin stated that, at times, they were told to stop making inquiries and taking other steps to seek justice. [FN439] Furthermore, it has been reported that "the harassment and threats directed at the victims' families, their representatives and civil society organizations have intensified as national and international pressure increased," because they are blamed for the national and international dimension that the situation has acquired. [FN440]

[FN438] Cf. IACHR, The Situation of the Rights of Women in Ciudad Juárez, supra note 64, folios 1745 and 1770, and Report on Mexico produced by CEDAW, supra note 64, folio 1924.
[FN439] Cf. IACHR, The Situation of the Rights of Women in Ciudad Juárez, supra note 64, folios 1748 and 1769.
[FN440] Cf. Report on Mexico produced by CEDAW, supra note 64, folio 1946.
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436. Based on the foregoing, the Court considers that the body of evidence reveals that Mrs. Monárrez suffered various acts of harassment following her daughter's disappearance and until she abandoned her country to go into exile in the United States; a situation experienced by her three children and her grandchildren also.

437. In the case of the Herrera family, on April 5, 2006, Mrs. Monreal Jaime testified before the Prosecutor's Office that her son, Adrián Herrera Monreal, "had been intercepted when driving his car; two Municipal Police patrol cars and two Judicial Police vans arrived, they made him get out of his car, they beat him and they took his vehicle. [E]ight months later, the car appeared dismantled in a lot belonging to the Judicial Police." [FN441] This testimony is consistent with the one rendered before this Tribunal during the public hearing, [FN442] and with the expert evidence provided. [FN443]

[FN441] Testimony of Irma Monreal Jaime before the official of the Public Prosecutor's Office, attached to the Joint Agency to Investigate the Murders of Women on April 5, 2006 (case file of attachments to the answer to the application, volume XXX, attachment 50 docket I volume I, folio 10290).

[FN442] Cf. testimony given by Mrs. Monreal, supra note 183.

[FN443] Cf. testimony of expert witness Azaola Garrido, supra note 186, folio 3366.

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438. The State has not specifically disputed these alleged facts or provided any evidence to disprove that they occurred. Consequently, the Court finds that the existence of acts of harassment against Adrián Herrera Monreal has been established.

439. Regarding the González family, neither the representatives nor the Commission described specific facts that reflect the alleged harassment and threats; nor did they develop arguments based on evidence that would allow the Tribunal to reach conclusions regarding the allegation.

440. Based on the foregoing, the Court finds that the acts of harassment suffered by the next of kin constitute a violation of the right to humane treatment embodied in Article 5(1) and 5(2) of the American Convention, in relation to Article 1(1) thereof, to the detriment of Adrián Herrera Monreal, Benita Monárrez Salgado, Claudia Ivonne Ramos Monárrez, Daniel Ramos Monárrez, Ramón Antonio Aragón Monárrez, Claudia Dayana Bermúdez Ramos, Itzel Arely Bermúdez Ramos, Paola Alexandra Bermúdez Ramos and Atziri Geraldine Bermúdez Ramos.

VIII. ARTICLE 11 [FN444] (RIGHT TO PRIVACY [HONOR AND DIGNITY]) OF THE AMERICAN CONVENTION

[FN444] Article 11 establishes:

1. Everyone has the right to have his honor respected and his dignity recognized.

2. No one may be the object of arbitrary or abusive interference with his private life, his family, his home, or his correspondence, or of unlawful attacks on his honor or reputation.

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3. Everyone has the right to the protection of the law against such interference or attacks.

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441. The representatives alleged that "the State violated the right to honor and dignity established in Article 11 of the [Convention], by encouraging an attitude of disrespect towards the victims by the authorities, who made disparaging comments and asked injurious questions to some of the next of kin when they filed their reports, and also made offensive public statements." In the opinion of the representatives, "by publicly manifesting an attitude of disparagement and contempt towards the victims, the State directly affected their honor and dignity. Furthermore, it did not comply with its obligation to modify cultural patterns promoting discrimination against women, or provide training to the authorities responsible for preventing, sanctioning and eliminating violence against women, as established in Article 8 of the Convention of Belém do Pará." Lastly, they considered that "[t]he actions taken by the mothers to claim justice were stigmatized and ridiculed."

442. The State affirmed that "the right to honor and dignity of the next of kin of [the three women] was not violated as claimed by the petitioners" because, "during the investigations into the disappearances, the discovery of the remains, and the inquiries to find those responsible for the murders, […] there is no evidence of acts of public disparagement, harassment or discrimination against the next of kin of [the] three women."

443. Even though the Commission did not submit arguments on this point, the Tribunal will proceed to examine these allegations because the requirements established in paragraph 232 supra have been fulfilled.

444. Article 11 of the Convention recognizes that everyone has the right to have his honor respected, prohibits any unlawful attack on honor and reputation, and imposes on the States the obligation to provide the protection of the law against such attacks. In general, the right to honor relates to self-esteem and self-worth, while reputation refers to the opinion that others have of an individual. [FN445]

[FN445] Cf. Case of Tristán Donoso, supra note 9, para. 57, and Case of Escher et al. v. Brazil, supra note 46, para. 117.

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445. The Court points out that the allegations concerning the supposed violation of Article 11 of the Convention to the detriment of the victims and their mothers refer to facts relating to the treatment they suffered as a result of the search for the young women who disappeared and the subsequent quest for justice. The juridical consequences of these facts have already been examined in relation to Article 5 of the Convention; the Tribunal therefore finds that it is not in order to declare a violation of Article 11 of the Convention.

IX. REPARATIONS

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446. It is a principle of international law that any violation of an international obligation which results in harm entails the obligation to make adequate reparation. [FN446] This obligation is regulated by international law. [FN447] The Court has based its decisions in this regard on Article 63(1) of the American Convention.

[FN446] Cf. Case of Velásquez Rodríguez v. Honduras. Reparations and Costs. Judgment of July 21, 1989. Series C No. 7, para. 25; Case of Anzualdo Castro v. Peru, supra note 30, para. 170, and Case of Dacosta Cadogan v. Barbados. Preliminary Objections, Merits, Reparations and Costs. Judgment of September 24, 2009. Series C No. 204, para. 94.
[FN447] Cf. Case of Anzualdo Castro v. Peru, supra note 30, para. 170, and Case of Dacosta Cadogan v. Barbados, supra note 446, para. 94.

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447. In accordance with the findings on the merits, and the violations of the Convention declared in the previous chapters, as well as in light of the criteria established in the Court's jurisprudence concerning the nature and scope of the obligation to make reparation, [FN448] the Tribunal will proceed to examine the claims submitted by the Commission and by the representatives so as to order measures tending to repair the damage.

[FN448] Cf. Case of Velásquez Rodríguez v. Honduras, Reparations and Costs, supra note 446, paras. 25 and 26; Case of Anzualdo Castro v. Peru, supra note 30, para. 173, and Case of Dacosta Cadogan v. Barbados, supra note 446, para. 95.

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1. Injured party

448. The Court reiterates that those who have been declared victims of the violation of a right recognized in the Convention are considered to be the "injured party." [FN449] In this case, the Tribunal has established that the State violated the human rights of Claudia Ivette González, Esmeralda Herrera Monreal and Laura Berenice Ramos Monárrez, and of their next of kin identified in paragraph 9 supra; they are therefore considered "injured parties" and beneficiaries of the reparations ordered in this chapter.

[FN449] Cf. Case of the "White Van" (Paniagua Morales et al.) v. Guatemala. Reparations and Costs. Judgment of May 25, 2001. Series C No. 76, para. 82; Case of Acevedo Buendía et al. ("Discharged and Retired Employees of the Office of the Comptroller") v. Peru, supra note 46, para. 112, and Case of Dacosta Cadogan v. Barbados, supra note 446, para. 97.

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2. Alleged "double reparation" of the measures requested by the representatives

449. The State indicated that the reparations requested by the representatives "are excessive, repetitive and constitute a request for double reparation, because many of them refer to the same

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violations." It added that "determining and granting these measures of reparation separately would involve a disproportionate burden for the State, because they would exceed the damage caused." The State indicated that these reparations "cannot refer to the same violation" and "should take into consideration the assistance [medical, financial (payment in kind), psychological and legal] provided."

450. The Court recalls that the concept of "integral reparation" (restitutio in integrum) entails the re-establishment of the previous situation and the elimination of the effects produced by the violation, as well as the payment of compensation for the damage caused. However, bearing in mind the context of structural discrimination in which the facts of this case occurred, which was acknowledged by the State (supra paras. 129 and 152), the reparations must be designed to change this situation, so that their effect is not only of restitution, but also of rectification. In this regard, re-establishment of the same structural context of violence and discrimination is not acceptable. Similarly, the Tribunal recalls that the nature and amount of the reparations ordered depend on the characteristics of the violation and on the pecuniary and non-pecuniary damage caused. Reparations should not make the victims or their next of kin either richer or poorer and they should be directly proportionate to the violations that have been declared. One or more measures can repair a specific damage, without this being considered double reparation.

451. In accordance with the foregoing, the Court will assess the measures of reparation requested by the Commission and the representatives to ensure that they: (i) refer directly to the violations declared by the Tribunal; (ii) repair the pecuniary and non-pecuniary damage proportionately; (iii) do not make the beneficiaries richer or poorer; (iv) restore the victims to their situation prior to the violation insofar as possible, to the extent that this does not interfere with the obligation not to discriminate; (v) are designed to identify and eliminate the factors that cause discrimination; (vi) are adopted from a gender perspective, bearing in mind the different impact that violence has on men and on women, and (vii) take into account all the juridical acts and actions in the case file which, according to the State, tend to repair the damage caused.

3. Obligation to investigate the facts and identify, prosecute and, if appropriate, punish those responsible for the violations

3.1. Identification, prosecution and punishment of those responsible for the gender-based disappearance, ill-treatment and murder of Mss. González, Ramos and Herrera

452. The Commission indicated that "a full reparation requires that the State investigate the disappearances and subsequent murders [of the victims] with due diligence and impartiality, and exhaustively, in order to clarify the historic truth of the facts. To this end, [the State] must adopt all necessary judicial and administrative measures to complete the investigation, find, prosecute and punish the perpetrator or perpetrators and mastermind or masterminds and provide full information on the results." The representatives endorsed this request.

453. The Court accepted the State's acknowledgement of responsibility for the irregularities committed during the first stage of the investigations, but also concluded that many of them were not rectified during the second stage (supra para. 388). The Tribunal found that, in this case,

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impunity existed and that this impunity is a cause and also a consequence of the series of gender-based murders of women that have been proven in the instant case.

454. The Court considers that the State is obliged to combat said situation of impunity by all available means, because it encourages the chronic repetition of human rights violations. [FN450] The absence of a complete and effective investigation into the facts constitutes a source of additional suffering and anguish for the victims, who have the right to know the truth about what happened. [FN451] This right to the truth requires the determination of the most complete historical truth possible, which includes determination of the collective patterns of action, and of all those who, in different ways, took part in said violations. [FN452]

[FN450] Cf. Case of Goiburú et al. v. Paraguay. Merits, Reparations and Costs. Judgment of September 22, 2006. Series C No. 153, para. 164; Case of the Ituango Massacres v. Colombia. Preliminary Objection, Merits, Reparations and Costs. Judgment of July 1, 2006. Series C No. 148, para. 399, and Case of Baldeón García v. Peru, supra note 261, para. 195.
[FN451] Cf. Case of Heliodoro Portugal v. Panamá, supra note 297, para. 146, and Case of Valle Jaramillo et al. v. Colombia, supra note 49, para. 102.
[FN452] Cf. Case of the Rochela Massacre v. Colombia, supra note 397, para. 195, and Case of Valle Jaramillo et al. v. Colombia, supra note 49, para. 102.

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455. Therefore, the Tribunal orders that the State must conduct effectively the criminal proceedings that are underway and, if applicable, those that may be opened in the future, to identify, prosecute and punish the perpetrators and masterminds of the disappearance, ill-treatments and deprivation of life of Mss. González, Herrera and Ramos, in keeping with the following directives:

a) All factual or juridical obstacles to the due investigation of the facts and conduct of the respective judicial proceedings shall be removed and all available means used to ensure that the investigations and judicial proceedings are conducted promptly in order to avoid a repetition of the same or similar acts as those in the instant case
b) The investigation shall include a gender perspective; undertake specific lines of inquiry concerning sexual assault, which must involve lines of inquiry into the corresponding patterns in the area; be conducted in accordance with protocols and manuals that comply with the directives set out in this judgment; provide the victims' next of kin with information on progress in the investigation regularly, and give them full access to the case files, and the investigation shall be carried out by officials who are highly trained in similar cases and in dealing with victims of discrimination and gender-based violence;
c) The different entities that take part in the investigation procedures and in the judicial proceedings shall have the necessary human and material resources to perform their tasks adequately, independently and impartially, and those who take part in the investigations shall be given due guarantees for their safety, and
d) The results of the proceedings shall be published so that Mexican society is aware of the facts that are the purpose of the instant case.

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3.2. Identification, prosecution and, if applicable, sanction of the officials who committed irregularities

456. The Commission stated, in general, that "the State is under the obligation to investigate and sanction all those who are responsible for the obstruction of justice, cover-up, and impunity that have prevailed in these cases."

457. The representatives asked that a conscientious, exhaustive and impartial investigation be carried out of the officials who have taken part in the investigations into the murders of the three victims from 2001 to date, and that they be sanctioned in a manner proportionate to the harm and damage caused. Furthermore, they indicated that many of the officials who took part in the investigations in the "Cotton Field" case have continued to work in the state of Chihuahua, and to commit the same irregularities, omissions and negligence.

458. The State only acknowledged "its responsibility for prosecuting and sanctioning the public officials who committed [irregularities] during the first stage of the investigations," and alleged that it had sanctioned the officials who were responsible, even by "dismissing" some of them.

459. In the instant case, the Court finds that none of the officials who committed serious irregularities during the first stage of the investigations have been sanctioned (supra para. 378).

460. The Tribunal finds that, as a means of combating impunity, the State shall, within a reasonable time, investigate the officials accused of irregularities through the competent public institutions and, following a due procedure, apply the corresponding administrative, disciplinary or criminal sanctions to those found responsible.

3.3. Investigation of the complaints filed by the victims' next of kin who have been harassed and persecuted

461. The representatives asked that the State investigate the acts of harassment and intimidation that were denounced by Benita Monárrez, her daughter, Claudia Ivonne Ramos Monárrez, and Adrián Herrera Monreal, Esmeralda Herrera's brother, which have not yet been investigated by the authorities.

462. Since the Court found that, in the instant case, Mrs. Monárrez suffered various acts of harassment from the time her daughter disappeared until she abandoned her country to go into exile abroad, a situation also suffered by her other three children and grandchildren, and that Adrián Herrera Monreal suffered various acts of harassment, the Court orders that the State shall, within a reasonable time, conduct the corresponding investigations and, if applicable, punish those responsible.

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463. The three gender-based murders in this case took place in a context of discrimination and violence against women. It does not correspond to the Tribunal to attribute responsibility to the

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State merely for the context; however, it cannot refrain from noting the extreme importance that the rectification of this situation signifies for the general measures of prevention that the State must adopt so that women and girls in Mexico can enjoy their human rights, and it invites the State to consider this.

4. Measures of satisfaction and guarantees of non-repetition

464. In this section, the Court will determine measures that seek to repair immaterial damage that is not of a pecuniary nature, and will order measures of public scope or repercussion.

4(1) Measures of satisfaction

465. The Commission indicated that the gravity and nature of the facts of the instant case require that the State adopt measures to dignify the memory of the victims. Accordingly, it asked that the Tribunal order the State: (i) to publish the judgment that the Court will deliver in newspapers, and on the radio and television; (ii) to publicly acknowledge its international responsibility for the damage caused and for the serious violations that occurred, in the significant and dignified manner required by the purposes of reparation, in consultation with the mothers of the victims and their representatives, and (iii) to name a place or build a monument to commemorate the victims, in consultation with their next of kin.

466. The representatives agreed with the Commission and also requested that: (i) the publication of the extracts of the judgment handed down by the Tribunal should be made in at least two newspapers with national circulation, two newspapers that circulate in the state of Chihuahua, two with international circulation, and in the Federation's Official Gazette; (ii) regarding the public acknowledgement of responsibility, the representatives considered that the State should include the three branches of Government, and added that the following should be present: the President of the Republic, the Governor of the state of Chihuahua, the Attorney General of the Republic, the Attorney General of Chihuahua, the President of the High Court of Justice, and the President of the Supreme Court of Justice of the Nation, together with the victims' families, the civil organizations that have been involved in the international action on femicide, and the ceremony should be transmitted by the press, radio and television; (iii) a memorial should be built in the field where the victims were found and another in Mexico City, and (iv) November 6 each year should be commemorated as the 'National Day in memory of the femicide victims."

467. The State offered: (i) public acknowledgement of responsibility; (ii) public dissemination in the mass media of the acknowledgement of responsibility, and (iii) a public event to apologize to the victims' next of kin for the irregularities acknowledged by the State during the initial investigations into the murders, and for the harm suffered by the victims' next of kin.

4.1.1. Publication of the judgment

468. As the Court has ordered in other cases, [FN453] as a measure of satisfaction, the State must publish once in the official gazette of the Federation, in a daily newspaper with widespread national circulation and in a daily newspaper with widespread circulation in the state of

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Chihuahua, paragraphs 113 to 136, 146 to 168, 171 to 181, 185 to 195, 198 to 209 and 212 to 221 of this Judgment, without the corresponding footnotes, and its operative paragraphs. Additionally, as the Court has ordered in other cases, [FN454] the State must publish this judgment in its entirety on an official web page of the Federal State, and of the state of Chihuahua. The State must make these publications in the newspapers and on the Internet within six months of notification of this Judgment.

[FN453] Cf. Case of Garibaldi v. Brazil, supra note 252, para. 157; Case of Kawas Fernández v. Honduras, supra note 190, para. 199, and Case of Escher et al. v. Brazil, supra note 46, para. 239.
[FN454] Cf. Case of the Serrano Cruz Sisters v. El Salvador. Merits, Reparations and Costs. Judgment of March 1, 2005. Series C No. 120, para. 195; Case of Escher et al. v. Brazil, supra note 46, para. 239, and Case of Garibaldi v. Brazil, supra note 252, para. 157.

4.1.2. Public act to acknowledge international responsibility

469. The Tribunal determined that the State's acknowledgement of responsibility makes a positive contribution to the development of these proceedings and to the exercise of the principles that inspire the American Convention (supra para. 26). However, as in other cases, [FN455] for this to become fully effective, the Court finds that the State must organize a public act acknowledging its international responsibility in relation to the facts of this case, to honor the memory of Laura Berenice Ramos Monárrez, Esmeralda Herrera Monreal and Claudia Ivette González. During this act, the State must refer to the human rights violations declared in this Judgment, whether or not it has acknowledged them. The act should take place during a public ceremony and be broadcast by local and federal radio and television. The State must ensure the participation of the next of kin of Mss. González, Herrera and Ramos, identified in paragraph 9 supra, who so wish, and must invite the organizations that represented the next of kin before the national and international courts to attend the event. The organization and other details of this public ceremony must be duly consulted previously with the three victims' next of kin. In case of disagreement between the victims' next of kin or between the next of kin and the State, the Court will decide. The State must comply with this obligation within one year of notification of this judgment.

[FN455] Cf. Case of Kawas Fernández v. Honduras, supra note 190, para. 202, and Case of Anzualdo Castro v. Peru, supra note 30, para. 200.

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470. With regard to the public authorities who should attend or take part in this act, the Court indicates, as it has in other cases, that they must be high-ranking officials. It is for the State to define who it appoints for this task.

4.1.3. Commemoration of the victims of gender-based murder

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471. The Tribunal considers that, in the instant case, it is pertinent for the State to erect a monument to commemorate the women victims of gender-based murder in Ciudad Juárez, who include the victims in this case, as a way of dignifying them and as a reminder of the context of violence they experienced, which the State undertakes to prevent in the future. The monument shall be unveiled at the ceremony during which the State publicly acknowledges its international responsibility (supra para. 469) and shall be built in the cotton field in which the victims of this case were found.

472. Since the monument relates to more individuals that those considered victims in this case, the decision on the type of monument shall correspond to the public authorities, who must consult the opinion of civil society organizations by means of an open, public procedure in which the organizations that represented the victims in this case shall be included.

4.1.4. National day in memory of the victims

473. The Court considers that the publication of the Judgment (supra para. 469), the public acknowledgement of responsibility (supra para. 470), and the monument to be built to commemorate the victims (supra para. 472) are sufficient for the purposes of the satisfaction of the victims. Consequently, it does not find it necessary to grant the request that November 6 each year should be commemorated as the "National Day in memory of the victims of femicide," even though a measure of this type can be discussed by the pertinent domestic bodies.

4.2. Guarantees of non-repetition

4.2.1. Regarding the request for a comprehensive, coordinated and long-term policy to ensure that cases of violence against women are prevented and investigated, those responsible prosecuted and punished, and reparation made to the victims

474. The Commission considered that the Court should order the State to adopt "an integral and coordinated policy, backed with sufficient resources, to guarantee that cases of violence against women are adequately prevented, investigated and punished, and that their victims receive reparations."

475. The representatives requested the creation of a long-term program with the necessary resources, in liaison with the different social actors and in coordination with State institutions, with well-defined objectives, goals and indicators that permit periodic progress reports and provide the community with information on the efforts made to discover the truth about the facts. They also considered it necessary to assess the normative framework for the prevention and sanction of violence against women, as well as the policies and models for attending to victims of gender-based violence and, in particular, to the families of women victims of murder, in keeping with international standards for treatment of victims. Lastly, they asked that the State establish a permanent, cross-cutting program to eradicate gender discrimination in the public administration with constant evaluation mechanisms and indicators of difficulties and progress.

476. The State alleged that it "had implemented a comprehensive and coordinated policy, supported by adequate public resources, to ensure that the specific cases of violence against

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women were adequately prevented, investigated, sanctioned and redressed by whosoever was found responsible."

477. The Tribunal observes that the State listed all the institutions, actions and legal measures undertaken from 2001 to date, at both the federal and local level to prevent and investigate the murder of women in Ciudad Juárez, as well as the support granted to the victims by the government.

478. Regarding the policies for the investigation of these crimes, the State explained how different types of prosecutors' offices have operated, at the federal and the state level, and jointly. These investigation policies will be explained more extensively when examining the request for reparations related to the transfer of cases to the federal jurisdiction (infra paras. 515 to 518).

479. In 2006 and 2007, the State adopted various laws and also amended the law in order to improve the penal system, access to justice, and the prevention and sanction of violence against women in the state of Chihuahua: (i) the new Penal Code of the state of Chihuahua; [FN456] (ii) the new Code of Criminal Procedure of the state of Chihuahua; [FN457] (iii) the State Law on the Right of Women to a Life without Violence; [FN458] (iv) the Law to Prevent and Eliminate Discrimination, [FN459] and (v) the Organic Law of the Judiciary of the state of Chihuahua. [FN460]

[FN456] Cf. Penal Code of the state of Chihuahua published in the Official Gazette on December 27, 2006 (case file of attachments to the answer to the application, volume XXXIX, attachment 55, folios 14364 to 14452).

[FN457] Cf. Code of Criminal Procedure of the state of Chihuahua published in the Official Gazette on August 9, 2006 (case file of attachments to the answer to the application, volume XXXIX, attachment 54, folios 14266 to 14362).

[FN458] Cf. State Law on the Right of Women to a Life without Violence, published in the Official Gazette on January 24, 2007 (case file of attachments to the answer to the application, volume XLIII, attachment 110, folios 16144 to 16163).

[FN459] Cf. Law to prevent and eliminate discrimination in the state of Chihuahua published in the Official Gazette on July 7, 2007 (case file of attachments to the answer to the application, volume XLIII, attachment 111, folios 16165 to 16178).

[FN460] Cf. Organic law of the Judiciary of the state of Chihuahua published in the Official Gazette on August 9, 2006 (case file of attachments to the answer to the application, volume XXXIX, attachment 53, folios 14187 to 14264).

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480. In 2006, the State adopted the Law to Protect and Provide Services to Victims of Crime of the state of Chihuahua and authorized the Office of the Deputy Prosecutor for human rights and for attending to victims of crime to intervene in the area of human rights, access to justice and reparation for victims. [FN461] The State also referred to the 2006 and 2007 reforms of the Public Prosecutor's Office of the state of Chihuahua and the following internal units: (i) the State Investigation Agency; (ii) the Center for Criminal and Forensic Studies; (iii) the Department of

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Expert Services and Forensic Science, and (iv) the Department of Services for Victims of Gender-based and Domestic Violence. [FN462]

[FN461] Cf. Law for the Treatment and Protecting of the victims of crime of the state of Chihuahua published in the Official Gazette on October 21, 2006 (case file of attachments to the answer to the application, volume XXXIX, attachment 58, folios 14506 to 14513).
[FN462] Cf. Organic law of the Office of the Public Prosecutor of the state of Chihuahua published in the Official Gazette on August 9, 2006 (case file of attachments to the answer to the application, volume XXXIX, attachment 52, folios 14174 to 14185).
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481. Regarding public security, Mexico indicated that, in 2005, the state of Chihuahua had created the program: "Chihuahua Seguro" (Safe Chihuahua). The measures taken under this program include: (i) combating impunity; (ii) the creation, in 2005, of the Office for the Special Prosecutor of Crimes against Women in Ciudad Juárez, to provide better services to victims and a "help line" for the general public; (iii) training for municipal agencies, especially in human rights, equity and gender, and (iv) other measures to deal with cases of domestic violence against women. [FN463] The State also referred to a Network for the Protection and Treatment of Victims of Crime in Chihuahua, in coordination with the CNDH. [FN464]

[FN463] Cf. Office of the Attorney General for the state of Chihuahua, report on the institutional policies implemented to prevent, investigate, punish and eliminate violence against women (case file of attachments to the answer to the application, volume XL, attachment 60, folio 14946).
[FN464] Cf. CNDH, Segundo Informe de Evaluación Integral, supra note 79, folio 4714.
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482. In addition, the State mentioned that the Chihuahua Women's Institute (hereinafter "the ICHIMU") had been created in August 2002, "to promote equal opportunities in education, training, health, employment and development and to strengthen the full exercise of women's rights and promote a culture of non-violence in order to eliminate all forms of discrimination" and, in accordance with the decree creating the ICHIMU, to implement public policies that promote the integral development of women and their full participation in economic, social, political, family and cultural life. [FN465] The State indicated that the ICHIMU works on two fronts: the institutionalization of a gender perspective and the prevention of violence against women.

[FN465] Cf. Decree No. 274/02-II-P.O. of May 30, 2002 (case file of attachments to the answer to the application, volume XLIII, attachment 112, folios 16179 to 16193).
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483. In the context of planning and programming in the state of Chihuahua, the Court notes that information was presented on the five following instruments: (i) the 2004-2010 State Development Plan for Chihuahua (hereinafter "the PEDCH"); (ii) the Program to Improve the

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Status of Women; (iii) the Integral Program to Guarantee the Right of Women to a Life without Violence; (iv) the Program to provide Services to Victims of Crime, and (v) the Comprehensive Public Security Program in 2003 and 2004.

484. The PEDCH includes the following strategies: (i) promotion of participation and decision mechanisms for women, ensuring their collaboration in initiatives that lead to increased gender equity; (ii) raising the awareness of society and the government concerning a gender perspective; (iii) emphasis on access to justice and obtaining justice for the defense and protection of women and the family; (iv) promotion of legal reforms that protect women in abusive situations; (v) increasing institutional training and information activities on health care for women, and (vi) promotion of the organization and implementation of productive projects that result in diversification of sources of employment and income for women, especially indigenous women and those living in underprivileged rural and urban areas. [FN466]

[FN466] Cf. Report of the Office of the Attorney General for the state of Chihuahua, supra note 463, folio 14944.
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485. According to the State, the purpose of the Program to Improve the Status of Women, coordinated by the State Population Council of the state of Chihuahua, is to enhance inter-institutional actions and efforts to promote the integral development of women which generate conditions and information that allow women to exercise their rights and freedoms fully.

486. In addition, according to the State, the Comprehensive Program to ensure the right of women to a life without violence, coordinated by the Chihuahua State System for the Integral Development of the Family (hereinafter "DIF"), promotes a culture of non-violence, especially against women, and a culture of reporting acts of violence perpetrated against women, girls, boys and the elderly, including actions addressed at the indigenous peoples. Among DIF actions, the State highlighted various programs, forums, information seminars, workshops and activities. [FN467] The Program to provide Services to Victims of Crime has been implemented since 1998 by the FEIHM (supra para. 270), but it was restructured at the beginning of 2004; [FN468] the State indicated that it was established "to create a direct link for assistance in finding [victims], and for support among the victims, their next of kin and the competent state institutions." Lastly, the State indicated that the purpose of the Comprehensive Public Security Program is to coordinate the security forces of the three branches of government in the state of Chihuahua.

[FN467] Cf. Report of the Office of the Attorney General for the state of Chihuahua, supra nota 463, folios 14951 and 14952.
[FN468] In February 2004, the database of the National Registry of Victims of Crime was installed in the FEIHM, and the creation of the Forensic Genetics Database was announced (Cf. Office of the Special Prosecutor for the Investigation of Crimes related to the Murders of Women in the Municipality of Juárez, Chihuahua, Primer Informe, June 3, 2004, case file of attachments to the application, volume X, attachment 79, folios 3103 and 3098).
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487. With regard to the federal jurisdiction, the Coordination and Liaison Subcommission for the Prevention and Eradication of Violence against Women in Ciudad Juárez (hereinafter the "SCEPEVM") was created on June 6, 2003, to "examine the situation of violence against women in Ciudad Juárez and to propose a comprehensive public policy, with courses of action in different areas to benefit the girls and women of Ciudad Juárez." [FN469]

[FN469] Cf. Report on Mexico produced by CEDAW, supra note 64, folios 1940 and 1970, and Comisión para Prevenir y Erradicar la Violencia contra las Mujeres en Ciudad Juárez, Tercer informe de gestión, supra note 101, folio 9030.

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488. On July 22, 2003, in Ciudad Juárez, the SCEPEVM announced the Federal Government's Program of Collaborative Actions to Prevent and Eliminate Violence against the Women of Ciudad Juárez _(hereinafter the "40-point Program"). This 40-point Program "was designed to deal with the multiple causes of the disappearances and murders of women in Ciudad Juárez," and "its activities were based on three main areas derived from the different recommendations received: access to justice and prevention of crime; social promotion, and the human rights of women." [FN470]

[FN470] Cf. Report on Mexico produced by CEDAW, supra note 64, folios 1938 to 1940; Office of the Special Prosecutor for the Investigation of Crimes related to the Murders of Women in Ciudad Juárez, Informe Final, supra note 87, folios 7449 and 7450.

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489. The Tribunal notes that the 40-point Program is based on three fundamental principles: (i) coordination; (ii) social participation, and (iii) transparency, and it has three strategic focal points: (i) provision of justice and prevention of crime, with 15 actions; (ii) social promotion, with 14 actions, and (iii) human rights of women, with 11 actions. [FN471]

[FN471] Cf. Comisión para Prevenir y Erradicar la Violencia contra las Mujeres en Ciudad Juárez, Tercer informe de gestión, supra note 101, folios 9156 to 9292, and Report on Mexico produced by CEDAW, supra note 64, folios 1938 to 1940.

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490. The 40-point Program was monitored by the Ciudad Juárez Commission (supra para. 127), created on February 18, 2004, as an unconcentrated organ of the Secreteriat of Government, dependant on the Federal Executive. The Ciudad Juárez Commission began to operate at the end of 2003; [FN472] its activities focused on four areas of work: (i) victim support; (ii) truth and justice; (iii) public policies with a gender perspective, and (iv) strengthening the social fabric. [FN473]To carry out its functions, the Ciudad Juárez Commission had two offices, one in Ciudad Juárez and the other in Mexico City. [FN474] The Court observes that, in June 2009, the Ciudad Juárez Commission was substituted by the

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National Commission to Prevent and Eliminate Violence against Women in order to tackle the problem of violence against women at the national level. [FN475]

[FN472] Cf. Decree creating the Commission to Prevent and Eliminate Violence against Women in Ciudad Juárez as an unconcentrated administrative body of the Secretariat of Government, published in the Federation's Official Gazette on February 18, 2004 (case file of attachments to the the final written arguments of the State, volume XLIX, attachment 7, folios 17403 and 17404), and Comisión para Prevenir y Erradicar la Violencia contra las Mujeres en Ciudad Juárez, Primer Informe de Gestión, supra note 67, folio 8690.
[FN473] Cf. Comisión para Prevenir y Erradicar la Violencia contra las Mujeres en Ciudad Juárez, Primer Informe de Gestión, supra note 67, folio 8708.
[FN474] Cf. Comisión para Prevenir y Erradicar la Violencia contra las Mujeres en Ciudad Juárez, Primer Informe de Gestión, supra note 67, folio 8707.
[FN475] Cf. Decree creating the National Commission to Prevent and Eliminate Violence against Women as an unconcentraded administrative body of the Secretariat of Government, published in the Federation's Official Gazette on June 1, 2009 (case file of attachments to the final written arguments of the State, volume XLIX, attachment 8, folios 17406 to 17409).
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491. A financial support fund operates in Ciudad Juárez; it will be explained below when assessing the compensation awarded in this case (infra para. 556). Also, at the federal level, INMUJERES received a budget of slightly more than $529,000,000.00 (five hundred and twenty-nine million Mexican pesos) in 2008, of which $290,000,000.00 (two hundred and ninety million Mexican pesos) was destined for states and municipalities to reinforce women's programs and civil society organizations working in this area. Among the programs, the State mentioned the Fund to Support Mechanisms for the Promotion of Women in the Federative Entities that Provides Services to Women Victims of Gender-Based Violence; it had a budget of $112,300,000.00 (one hundred and twelve million three hundred thousand Mexican pesos) that was distributed equitably among the states to enhance local initiatives combating gender-based violence. [FN476] The representatives and the Commission did not contest these figures.

[FN476] Cf. The Federation's budget of expenses for the 2008 Fiscal Exercise, published in the Federation's Official Gazette on December 13, 2007 (case file of attachments to the answer to the application, volume XLIII, attachment 85, folios 15794 to 15910). It shows that INMUJERES received 543.2 million Mexican pesos.
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492. Among other actions and activities implemented through INMUJERES, the State has organized various workshops and training sessions for public officials; it has also improved shelters and centers for protection and treatment of women, as well as centers to provide treatment to abusive men, including centers in Ciudad Juárez. [FN477] Among other activities, INMUJERES, created in 2001, has: (i) designed public policies for the elimination of discriminatory or violent messages against women and gender stereotyping in the media; (ii) broadcast announcements to prevent violence against women on radio stations and television

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channels in Chihuahua; (iii) organized campaigns on the elimination of gender-based violence; (iv) directed victims towards institutions providing support for gender-based violence; (v) financed the Women's Integral Development Center project entitled "Por los derechos de las Mujeres Víctimas del Feminicidio en Juárez" [For the women victims of femicide in Juárez]; (vi) financed in 2003, in coordination with the National Council for Science and Technology (CONACYT), the preparation of an assessment on the incidence of gender-based violence in Ciudad Juárez, Chihuahua, and in five other states, and (vii) prepared a geo-socio-economic diagnosis of Ciudad Juárez and its society. The representatives and the Commission did not contest the existence and scope of these projects and actions.

[FN477] Cf. Law of the National Women's Institute, published in the Federation's Official Gazette on January 12, 2001 (case file of attachments to the answer to the application, volume XLIII, attachment 87, folios 16010 to 16047). Some of the activities mentioned by the State are included in the attachment to Mexico's sixth periodic report in compliance with the Convention on the Elimination of All Forms of Discrimination against Women, November 2005 (case file of attachments to the answer to the application, volume XLII, attachment 82, folio 15479).

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493. The Tribunal observes that, in their briefs, neither the Commission nor the representatives challenged the existence or the validity of the above organizations and programs mentioned by the State, or the State's evaluation of each one. Moreover, neither the Commission nor the representatives provided sufficient arguments on practical problems encountered with the actions implemented by the State to date, or clarified why the series of measures adopted by the State cannot be considered an "integral, coordinated policy." In this regard, the Court recalls that, under Article 34(1) of the Rules of Procedure, the Commission must indicate its claims for reparations and costs in the application, together with the justification and the pertinent conclusions. This obligation to provide the rationale and the justification is not fulfilled by general requests with no factual or legal arguments or evidence that would allow the Tribunal to examine their purpose, reasonableness and scope. The same applies to the representatives.

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494. The Court appreciates the efforts made by the Mexican State to formally adapt its legislation and other legal actions and institutions, and to implement different actions designed to combat gender-based violence, both in the State of Chihuahua and at the federal level, as well as its efforts to adapt its criminal justice system at the local and federal levels. These advances are structural indicators of the adoption of norms that, in principle, are aimed at tackling the violence and discrimination against women in a context such as the one that has been proved in the instant case.

495. Nevertheless, the Tribunal does not have sufficient, recent information to be able to assess whether these laws, institutions and actions have: (i) resulted in the effective prevention and investigation of cases of violence against women and gender-based murder; (ii) ensured that

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those responsible have been prosecuted and sanctioned, and (iii) ensured that reparation has been made to the victims; all this bearing in mind the context established in the instant case. Thus, for example, none of the parties offered precise information on the occurrence of similar crimes to those of this case from 2006 to 2009. [FN478] In particular, the Court is unable to rule on the existence of an integral policy to overcome the situation of violence against women, discrimination and impunity, without information on any structural defects that crosscut these policies, any problems in their implementation, and their impact on the effective enjoyment of their rights by the victims of this violence. In addition, the Tribunal does not have result indicators in relation to how the policies implemented by the State could constitute reparations with a gender perspective to the extent that they: (i) question and, by means of special measures, are able to modify, the status quo that causes and maintains violence against women and gender-based murders; (ii) have clearly led to progress in overcoming the unjustified legal, political, social, formal and factual inequalities that cause, promote or reproduce the factors of gender-based discrimination, and (iii) raise the awareness of public officials and society on the impact of the issue of discrimination against women in the public and private spheres.

[FN478] In their final written arguments of June 2009, the representatives indicated that “from 2008 to date, 24 girls and women of Ciudad Juárez have disappeared; there is no information on their whereabouts and the authorities have not taken sufficiently exhaustive and conscientious measures to find them,” according to “an estimated figure based on official information recorded” by the NGO, Nuestras Hijas de Regreso a Casa A.C. However, no specific information was provided to the Court on what this official information was, or the methodology used to obtain this figure. Moreover, no relevant documentary evidence was attached.

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496. The fact that the Commission, the representatives and the State have not provided sufficient arguments prevents the Court from ruling on whether the public policies currently being implemented really represent a guarantee of non-repetition of what happened in this case.

4.2.2. Standardization of protocols, federal investigation criteria, expert services and provision of justice to combat the disappearances and murders of women and the different types of violence against women

497. The Commission asked the Tribunal to order the State to improve the overall institutional capacity to combat the pattern of impunity in the cases of violence against women in Ciudad Juárez by conducting effective criminal investigations, followed by constant judicial control, in order to ensure adequate punishment and redress.

498. The representatives stated that the procedures for access to and provision of justice should be modified entirely, including all stages of the investigations, the preservation of evidence, the protection of the crime scene, the removal of the bodies, the chain of custody, etc. They also asked that the state system of criminal justice and of crime prevention and investigation should be standardized and harmonized with the need to respect the human rights of women, principally the investigation manuals and protocols.

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499. Regarding the new Penal Code of the State of Chihuahua, in force since 2007, the State indicated that amendments had been made concerning: (i) the crime of intentional murder and kidnapping of women or children, so that, in cases where there are simultaneity of criminal acts, the punishment for each crime must be imposed even when this would exceed a 60-year prison sentence; (ii) the crime of homicide without aggravating circumstances, so that, if the victim of the crime is a woman or a child, the term of imprisonment will be 30 to 60 years, instead of 8 to 20 years, in addition to the punishment accumulated for each additional crime, even though this would exceed the maximum term of imprisonment of 60 years, and (iii) the crime of causing bodily injury, if injury is caused to an ancestor, descendant, brother, spouse, concubine, partner, adoptive parent or adopted child, this increases the corresponding punishment by one-third. Lastly, the State indicated that this Code punishes domestic violence under the State Law on the Right of Women to a Life without Violence. [FN479]

[FN479] Cf. Articles 32, third paragraph;125, second paragraph; 126;130, and 193 of the Penal Code of the state of Chihuahua, supra note 456, folios 14371, 14390, 14391 and 14404.

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500. Regarding the new Code of Criminal Procedure of the State of Chihuahua in force since 2006, the State indicated that: “it establishes that the criteria of opportunity will not be applied in order to file a criminal action in cases of crimes against sexual freedom and security, or domestic violence, since they seriously affect public interest.” The Code also establishes that, in cases of sexual crimes and domestic violence, the victim will be provided “with comprehensive assistance by the specialized units of the Office of the Attorney-General for the State of Chihuahua, which will intervene with due diligence, applying the protocols that have been issued.” Lastly, the State advised that the Code provides for the precautionary measure of immediate separation of the probable offender from the home in the case of domestic violence against women. [FN480]

[FN480] Cf. Articles 83, fraction I, second paragraph; 121, last paragraph, and 169, fraction IX of the Code of Criminal Procedure of the state of Chihuahua, supra note 457, folios 14281, 14291 and 14301.

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501. The State attached models of protocols as evidence [FN481] and indicated that “a specific protocol is followed for each type of crime. For cases of murders of women, there are protocols for sex crimes, injuries, on-site crime investigation, support for victims, crisis support, forensic chemistry, forensic medicine, murder, suicide and accidental death.” It asserted that the state Office of the Attorney General had distributed widely the contents of the Declaration on the Elimination of Discrimination against Women, the Convention on the Elimination of All Forms of Discrimination against Women, and the Convention of Belém do Pará.

[FN481] Cf. Office of the Attorney General for the state of Chihuahua, Criminal Investigation Protocols and Protocols for Personnel Specialized in providing services to Victims (case file of

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attachments to the final written arguments of the State, volume XLVII, attachment 3, folios 16955 to 17082).
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502. In other cases, the Court has ordered that the parameters for investigations, forensic analyses and prosecution should be harmonized with international standards. [FN482] The Tribunal considers that, in this case, the State must, within a reasonable time, continue harmonizing all its protocols, manuals, judicial investigation criteria, expert services and delivery of justice used to investigate all crimes concerning the disappearance, sexual abuse and murder of women with the Istanbul Protocol, the United Nations Manual on the Effective Prevention and Investigation of Extralegal, Arbitrary and Summary Executions, and the international standards for searching for disappeared people, based on a gender perspective. In this regard, it must provide an annual report for three years.

[FN482] Cf. Case of Gutiérrez Soler v. Colombia. Merits, Reparations and Costs. Judgment of September 12, 2005. Series C No. 132, paras. 109 and 110.

4.2.3. Implementation of a program to look for and find disappeared women in the state of Chihuahua

503. The representatives asked that Operation Alba be revised, redesigned and restructured with “the participation of international experts in this field in order to […] create an immediate response investigation and documentation program [with] the necessary financial resources to ensure that it can function adequately.” They also alleged that “the ‘immediate response’ actions [in force] were not effective for responding promptly to the report of a disappeared or missing person and, above all, were inadequate and ineffective for preventing crimes against the women and girls of Ciudad Juárez,” mainly because “the criteria for classifying a disappearance as ‘high risk’ were neither clear nor objective and included discriminatory elements,” and even because officials refused to implement the urgent measures without plausible justification.

504. The Court observes that, on July 22, 2003, the State implemented Operation Alba “to establish special surveillance, in addition to the surveillance that already existed, in areas of high risk for women and where murder victims had been found.” Subsequently, on May 23, 2005, the Protocol for Reception, Reaction and Coordination between municipal, state and federal authorities in cases of missing women and girls in the Municipality of Juárez or the “Alba Protocol” was implemented. Based on agreement and consensus among the participating institutions, the protocol established a mechanism for reception, reaction and coordination among authorities of the three spheres of government when women or girls went missing in Ciudad Juárez. In October 2006, the protocol had been “activated 8 times [since its creation], and had led to the discovery of 7 women and 2 children who had gone missing or disappeared.” [FN483]

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[FN483] Cf. Comisión para Prevenir y Erradicar la Violencia contra las Mujeres en Ciudad Juárez, Tercer informe de gestión, supra note 101, folio 9054.
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505. The Tribunal assesses positively the creation of Operation Alba and the Alba Protocol as a way of paying increased attention to the disappearance of women in Ciudad Juárez. Nevertheless, it observes that these search programs are only put in practice when a "high-risk" disappearance occurs, a criterion that, according to information from several sources, is only met in the case of reports with "specific characteristics"; [FN484] namely, that "it is certain that [the women] had no reason to abandon their home", a young girl has disappeared, [FN485] "the young woman [had] a stable routine," [FN486] and that the report had "characteristics associated with the 'serial' killings." [FN487]

[FN484] Cf. Office of the Attorney General for the state of Chihuahua, official letter addressed to the Director of Human Rights of the Ministry of Foreign Affairs, February 17, 2003 (case file of attachments to the answer to the application, volume XLII, attachment 75, folio 15381).
[FN485] Cf. Report on Mexico produced by CEDAW, supra note 71, folio 1929.
[FN486] Cf. CNDH, Informe Especial, supra note 66, folio 2174, and Amnesty International, Intolerable killings, supra note 64, folio 2274.
[FN487] Cf. IACHR, The Situation of the Rights of Women in Ciudad Juárez, supra note 64, folio 1746.
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506. The Court considers that the Alba Protocol, or any analogous mechanism in Chihuahua, should include the following parameters: (i) implement searches ex officio and without any delay in cases of disappearance as a measure to protect the life, personal liberty and personal integrity of the disappeared person; (ii) coordinate the efforts of the different security agencies to find the person; (iii) eliminate any factual or legal obstacle that reduces the effectiveness of the search or that prevents it from starting, such as requiring preliminary inquiries or procedures; (iv) allocate the human, financial, logistic, scientific or any other type of resource required for the search to be successful; (v) crosscheck the missing person report with the database of missing persons mentioned in section 4.2.4 infra, and (vi) give priority to searching areas where reason dictates that it is most probable to find the disappeared person, without arbitrarily disregarding other possibilities or areas. All of the above must be even more urgent and rigorous when a girl has disappeared. In this regard, an annual report must be presented for three years.

507. The Ciudad Juárez Commission advised that, in March 2005, it set up the web page: www.mujeresdesaparecidascdjuarez.gob.mx with information on some of the young women and girls who had disappeared in Ciudad Juárez. [FN488] The Court notes that the page has not been updated since December 2006.

[FN488] Cf. Comisión para Prevenir y Erradicar la Violencia contra las Mujeres en Ciudad Juárez, Tercer informe de gestión, supra note 101, folio 9200.
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508. In this regard, and bearing in mind that an electronic network where anyone can provide information on a disappeared woman or girl child could be useful to trace that individual, the Tribunal orders, as it has on other occasions, [FN489] the creation of a web page with the necessary personal information on all the women and girls who have disappeared in Chihuahua since 1993 and who are still missing. This web page must allow anyone to communicate with the authorities by any means, including anonymously, in order to provide relevant information on the whereabouts of the disappeared women or girls or, if applicable, of their remains. The information on the web page must be updated constantly.

[FN489] Cf. Case of the Serrano Cruz Sisters v. El Salvador. supra nota 454, para. 190.

4.2.4. Comparison of genetic information from the bodies of unidentified women or girls deprived of life in Chihuahua with missing persons on a national level

509. The representatives asked that a national database be set up to facilitate the identification of persons reported as missing. They also stated that a national database should be created to allow comparison of the information on missing persons with information on persons who have been found dead and recorded as unidentified.

510. The State did not refer to this issue specifically. However, it mentioned the so-called "Human Identity Program" when it proposed to the victims' next of kin that they should collaborate with the EAAF in order to confirm the identity of the bodies found in the cotton field.

511. Although the Court observes that the State created a register with data on women who are missing in the Municipality of Juárez and a forensic DNA databank, [FN490] the Tribunal has no probative elements to allow it to conclude that the State created a national database of disappeared persons. Furthermore, even though the Court observes that there is a forensic DNA database with genetic information on some of the next of kin of victims of gender-based murder and of some bodies that were found, [FN491] it has no evidence that the State has compared the information on disappeared women at the national level, or the genetic information of the next of kin of those disappeared women with the genetic information extracted from the bodies of any women or girl deprived of life and unidentified in Chihuahua. Moreover, there is no information in the case file to allow the Tribunal to determine whether the information contained in said databases is sufficient, or their level of effectiveness and results in relation to the investigations of the disappearances and murders of women in Ciudad Juárez.

[FN490] Cf. Office of the Special Prosecutor for the Investigation of Crimes related to the Murders of Women in Ciudad Juárez, Informe Final, supra note 87, folios 14582 and 14587 to 14594.

[FN491] Cf. Office of the Special Prosecutor for the Investigation of Crimes related to the Murders of Women in Ciudad Juárez, Informe Final, supra note 87, folios 14582 and 14587 to 14594.

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512. The Court finds that the rationale for creating a database of disappeared women and girls at the national level, and updating and comparing the genetic information from the relatives of missing persons with that of unidentified bodies is the possibility that the bodies of some of the women or girls found in Chihuahua belong to individuals who disappeared in other states of the Federation, and even in other countries. Consequently, as it has in other cases, [FN492] the Court orders: (i) the creation or updating of a database with the personal information available on disappeared women and girls at the national level; (ii) the creation or updating of a database with the necessary personal information, principally DNA and tissue samples, of the next of kin of the disappeared who consent to this – or that is ordered by a judge – so that the State can store this personal information with the sole purpose of locating a disappeared person, and (iii) the creation or updating of a database with the genetic information and tissue samples from the body of any unidentified woman or girl deprived of life in the State of Chihuahua. The State must protect the personal information in these databases at all times.

[FN492] Cf. Case of Molina Theissen v. Guatemala. Reparations and Costs. Judgment of July 3, 2004. Series C No. 108, para. 91; Case of the Serrano Cruz Sisters v. El Salvador, supra note 454, para. 193, and Case of Servellón García et al. v. Honduras, supra note 308, para. 203.

4.2.5. Creation of a legal mechanism for transferring cases from the civil courts to the federal jurisdiction when impunity exists or when serious irregularities are proven in the preliminary investigations

513. The representatives indicated that a mechanism under national law is needed to facilitate and regulate the transfer of cases from the local jurisdiction to the Federal jurisdiction because, in this case, "one of the main problems that permitted and still permit violations of the human rights of the victims of violence against women and femicide is the impossibility for the Federation to intervene, review and, if applicable, rectify the irregularities and deficiencies in cases filed in the common jurisdiction." They indicated that, even though the federal level created the Commission to Prevent and Eliminate Violence against the Women of Ciudad Juárez in 2004, it never had the legal authority to propose or to rectify the actions of the local jurisdiction officials. Furthermore, they stated that even if the Office of the Special Prosecutor for the Investigation of Crimes related to the Murders of Women in the Municipality of Ciudad Juárez was created in 2004, it only reviewed the preliminary investigations in the local jurisdiction with regard to the negligence and responsibility of the officials who had taken part in them, without making suggestions or contributions, reviewing or rectifying deficiencies that it found, because its mandate did not empowered it for this.

514. The State advised that, on August 29, 2003, the Joint Agency of the Public Prosecutor's Office of Ciudad Juárez, Chihuahua was created (hereinafter "the Joint Agency") to investigate women's murders and related crimes, under a cooperation agreement between the Office of the Attorney General of the Republic and the Office of the Attorney General for the state of Chihuahua. According to the evidence provided by the parties, the purpose of the Joint Agency

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was to investigate and prosecute the crimes with full collaboration and coordination between the two Public Prosecutor's Offices and to implement joint actions in the investigations to clarify the murder of women in that municipality. The Federal Special Prosecutor's Office for Juárez coordinated and supervised the representation of the Federal Public Prosecutor's Office in the Joint Agency. [FN493]

[FN493] Cf. Office of the Special Prosecutor for the Investigation of Crimes related to the Murders of Women in Ciudad Juárez, Chihuahua, Primer Informe, supra note 468, folios 2999 to 3142; Office of the Special Prosecutor for the Investigation of Crimes related to the Murders of Women in Ciudad Juárez, Informe Final, supra note 87, folio 14536, and Report on Mexico produced by CEDAW, supra note 64, folio 1939.

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515. On January 30, 2004, the Special Prosecutor's Office was created at the federal level. According to the State, the Federal Special Prosecutor's Office for Juárez was attached to the Office of the Attorney General of the Republic and "was competent to direct, coordinate and supervise the investigations into the crimes concerning the murder of women in the Municipality of Juárez, Chihuahua, exercising its power to take over cases that were linked to a federal crime." This statement was not contested by either the Commission or the representatives. The functions of the Special Prosecutor's Office included "reviewing […] and examining each of the case files that contain information on the murder or disappearance of women, and investigating – with attribution of responsibility – any cases in which evidence of the negligence, inefficiency or tolerance of public officials is found in order to avoid impunity and to sanction those who have failed to fulfill their obligations." [FN494] The Tribunal observes that the Special Prosecutor's Office implemented four specific programs under its work plan: (i) systematization of the information on the murders of women and related crimes; (ii) handling of crimes related to murders; (iii) reception of reports of missing women, and (iv) provision of services and care to victims. [FN495]

[FN494] Cf. Office of the Special Prosecutor for the Investigation of Crimes related to the Murders of Women in Ciudad Juárez, Informe Final, supra note 87, folio 14532.
[FN495] Cf. Office of the Special Prosecutor for the Investigation of Crimes related to the Murders of Women in Ciudad Juárez, Informe Final, supra note 87, folios 14532, 14536 and 14537.

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516. The Special Prosecutor's Office concluded its task in 2006, when the 2004 agreement creating it was rescinded. [FN496] On February 16, 2006, the Office of the Attorney General of the Republic delivered the final report of the Special Prosecutor's Office to the CNDH. The CNDH stated that "the final report did not describe any significant progress with regard to the three previous reports, which this National Commission duly commented on in its evaluation report of August 23, 2005." [FN497]

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[FN496] Cf. Office of the Attorney General of the Republic, Decision No. A/003/06, supra note 498, folio 15464.
[FN497] Cf. CNDH, Segundo Informe de Evaluación Integral, supra note 72, folio 4664.
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517. The Special Prosecutor's Office was subsequently substituted on two occasions: on February 16, 2006, by the Office of the Special Prosecutor for Crimes related to Acts of Violence against Women (also known as "FEVIM" for its name in Spanish), attached to the Office of Attorney General of the Republic, in order to respond to crimes related to acts of violence against women throughout the country; [FN498] and, on January 31, 2008, by the Office of the Special Prosecutor for Crimes of Violence against Women and People Trafficking, also attached to the Office of the Attorney General of the Republic, to investigate and prosecute federal crimes related to acts of violence against women, as well as human trafficking. [FN499]

[FN498] Cf. Office of the Attorney General of the Republic, Decision No. A/003/06, January 19, 2006 (case file of attachments to the answer to the application, volume XLII, attachment 78, folios 15462 to 15465).
[FN499] Cf. Office of the Attorney General of the Republic, Decision No. A/024/08, January 29, 2008 (case file of attachments to the answer to the application, volume XLII, attachment 80, folios 15470 to 15473).
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518. At the local level, in August 2005, the state of Chihuahua modified the purpose of the FEIHM because, according to the State, "previously, it had focused exclusively on murders with a sexual motive"; from that date on, it also included "all the cases of intentional murders in which the victims were women." [FN500]

[FN500] Cf. Report on Mexico produced by CEDAW, supra note 64, folios 1937 and 1963, and CNDH, Segundo Informe de Evaluación Integral, supra note 72, folio 4697.
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519. The Court observes that the activity of the Special Prosecutor's Office was limited to systematizing the information on the murders of women in Ciudad Juárez and investigating only those crimes that fell within the federal jurisdiction. [FN501] In this regard also, the Tribunal does not have recent information on the functioning and effectiveness of the modified FEIHM.

[FN501] Cf. Office of the Special Prosecutor for the Investigation of Crimes related to the Murders of Women in Ciudad Juárez, Informe Final, supra note 87, folios 14532, 14538, 14539 and 14544.
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520. The representatives did not support their request for redress with clear, pertinent and sufficient arguments concerning the problems of access to justice that could have arisen from

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domestic law applicable to the mechanism of transfer to the federal jurisdiction. In addition, they did not provide arguments on the specific evidence about the policies designed by the State to resolve the problem in recent years. The foregoing prevents the Court from ruling on this request for reparation.

4.2.6. Prohibition for any official to discriminate based on gender

521. The representatives requested the express prohibition, under pain of punishment, for any current or future official within the three levels of government to make a denigrating statement or to act disparagingly or to minimize violations of the rights of women, in particular to deny or to play down the existence of violence against women in the context of gender-based murders in Ciudad Juárez. They indicated that, at different times in the past, the Mexican State has insisted in diminishing, detracting from or minimizing the causes and effects of the murder and disappearance of hundreds of women in that city, and they added that the attitude of the authorities has been notoriously discriminatory.

522. The State provided information on the General Law on Gender Equality, published in 2006, the purpose of which is to regulate and guarantee equality between women and men, and to propose institutional mechanisms and guidelines to assist the Mexican State in achieving substantive equality in the public and private spheres, promoting the empowerment of women. The law created the National Gender Equality System, established in 2007, and the 2008-2012 National Gender Equality Program was implemented in the context of the application of the law. [FN502] The 2008-2012 National Gender Equality Program was presented in 2008 as part of the 2007-2012 National Development Plan [FN503] and the State indicated that "it contributed to achieving the national objectives, strategies and priorities in relation to substantive equality between women and men." The program is run by INMUJERES. The law has been replicated in the state of Chihuahua since 2007 with the publication of the Chihuahua state Law to Prevent and Eliminate Discrimination. [FN504]

[FN502] Cf. General Law on Gender Equality, published in the Federation's Official Gazette on August 2, 2006 (case file of attachments to the answer to the application, volume XLIII, attachment 106, folios 16079 to 16089).
[FN503] Cf. 2007-2012 National Development Plan, strategy 5.4 of focal point 1, and objective 16 of focal point 3 (case file of attachments to the answer to the application, volume XLII, attachment 84, folios 15495 to 15792).
[FN504] Cf. State of Chihuahua Law to Prevent and Eliminate Discrimination, supra note 459, folios 16164 to 16178.

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523. The State alleged that the General Law on Access of Women to a Life without Violence, published in 2007, establishes "the bases for preventing, dealing with and eliminating violence against women of any age in the public and private spheres," as well as the "guiding principles to ensure that women have access to a life without violence in the federal and local spheres; legal equality between women and men; respect for the human dignity of women; non-discrimination and freedom for women." It added that this law "identifies the mechanisms for prevention and

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also for providing protection and assistance to women and girls to eliminate violence against them, and establishes the obligation of the municipal, state and federal public security agencies, and organs for the administration of justice, to offer special and appropriate protection and care to women victims." [FN505] Lastly, the Law to Protect the Rights of Boys, Girls and Adolescents establishes that the purpose of protecting their rights is to ensure their full and integral development, which includes the possibility to achieving physical, mental, emotional, social and moral development in equal conditions. [FN506]

[FN505] Cf. General Law on Access of Women to a Life without Violence, supra note 124, folios 16091 to 16107.
[FN506] Cf. Law to Protect the Rights of Girls, Boys and Adolescents, supra note 420, folios 16049 to 16063.

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524. Furthermore, in the state of Chihuahua, Mexico regulated discrimination as a criminal offence and established an administrative sanction for public officials who discriminate, according to the Federal Law on the Responsibilities of Public Servants. [FN507]

[FN507] Cf. Articles 30, 31 and 32 of the Law to Prevent and Eliminate Discrimination of the state of Chihuahua, supra note 459, folio 16177; Article 197 of the state of Chihuahua Penal Code, supra note 456, folios 14364 to 14452, and Article 3 of the General Law on Gender Equality, supra note 502, folio 16079.

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525. The representatives did not submit arguments about the possible lacunae and deficiencies in this type of laws, programs and actions; consequently, the Tribunal does possess any elements on which it can rule with regard to this request.

4.2.7. Law regulating support for victims of gender-based murders

526. The representatives asked the Court to order "the enactment of a law that regulates […] objectively the specific support provided to victims of the femicide, as well as minimum standards for monitoring and evaluating this support." They justified this request on the basis that the support of a social nature or as general compensation provided by the State to date could not be left to the discretion of public officials temporarily in power, and because the support was not decided or established based on international standards for reparation of damage, but rather based on government and political criteria.

527. The State did not refer to this point specifically. However, the Tribunal observes that, when providing the support that the Court will refer to below, the State indicated that it was additional to the compensation offered in its brief answering the application (infra para. 550), and even affirmed that the contact that the authorities had maintained with the victims' next of kin should be seen "as an example of the State's good faith to repair the consequences of the

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irregularities accepted by the authorities during the first stage of the investigations into the murders of the three women."

528. The Court observes that the Head of the Ciudad Juárez Commission recognized that, in 2005, when establishing the Financial Support Fund for the Families of Victims of Murders of Women (infra para. 557), it was not considered a means of redressing the damage. The assistance was offered based on the criminal acts of the murderer and not on the State's responsibilities, and the support was conditioned to the filing of civil or family lawsuits. [FN508]

[FN508] Cf. Comisión para Prevenir y Erradicar la Violencia contra las Mujeres en Ciudad Juárez, Tercer informe de gestión, supra note 101, folio 9185.

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529. The Tribunal considers that the social services that the State provides to individuals cannot be confused with the reparations to which the victims of human rights violations have a right, based on the specific damage arising from the violation. Hence, the Court will not consider any government support that was not specifically addressed at repairing the lack of prevention, impunity and discrimination that can be attributed to the State in the instant case as part of the reparation that the State alleges to have made.

530. In addition, the Court finds that it cannot tell the State how it should regulate the support it offers to the individual as part of a social assistance program; accordingly, it abstains from ruling on this request by the representatives.

4.2.8. Training with a gender perspective for public officials and the general public of the state of Chihuahua

531. The Commission asked that the Court order the State to organize training programs for public officials in all branches of the administration of justice and the police, as well as comprehensive prevention policies. Furthermore, it asked that the Tribunal order the implementation of public policies and institutional programs to overcome existing stereotypes of the role of women among the society of Ciudad Juárez and to promote the elimination of discriminatory socio-cultural patterns that prevent women from obtaining full access to justice.

532. The representatives recognized that, although the State has made significant efforts with regard to training public officials, especially those whose work has a direct impact on the cases of disappearances and murders of women, these efforts have not been entirely satisfactory, because they did not include a cross-cutting gender perspective and did not incorporate a gender perspective in every activity implemented by the State's authorities. They added that, although they had received training, the officials who appeared at the hearing "do not understand the implications of the Conventions […] as regards the rights" of the victims.

533. The State indicated that "it is aware that some of the irregularities committed at the onset of the investigations into the murders of Claudia Ivette González, Esmeralda Herrera Monreal and Laura Berenice Ramos Monárrez were due to the lack of training of the public officials

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involved." However, the State alleged that, starting in October 2004, the Office of the Attorney General for the state of Chihuahua, in coordination with local institutions and universities, had designed a specialized training program on investigation techniques and procedures, and the professionalization of expert services, in which it invested more than 14 million pesos. No proof of the investment of this capital sum has been provided to the Court. The program includes "master's programs with the collaboration of Spanish universities and the National Human Rights Commission." [FN509] In 2005, more than 122 training programs were provided through the Center for Criminal and Forensic Studies, representing an investment of more than 12 million pesos. [FN510] The Tribunal observes that this investment has not been authenticated.

[FN509] The State attached various contracts signed from 2005 to 2008 with national and international institutions, such as the UNAM, the Instituto de Mediación de Mexico, S.C., the Universidad Autónoma de Chihuahua, the Universidad Autónoma de Ciudad Juárez, the Universidad de Barcelona, the Universidad de Gerona, the IMCAA, S.A. de C.V., and the Latin American Forum for Urban Security and Democracy, A.C., in collaboration with local institutions such as the Office of the Attorney General for the state of Chihuahua and the State Human Rights Commission, as well as federal institutions, such as the National Human Rights Commission (case file of attachments to the final written arguments of the State, volume L, folios 17565 17833).

[FN510] The State exhibited a list of courses offered over the period of 2005 to 2009, with the name of each course, the place and date it was held, and the names of those who were trained (Cf. Office of the Attorney General for the state of Chihuahua, Center for Criminal and Forensic Studies, Cursos impartidos durante 2005-2009, case file of attachments to the final written arguments of the State, volume XLIX, folios 17537 to 17564).

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534. On the issue of training, since 2006, the Organic Law of the Judiciary of the state of Chihuahua has accorded special importance to training officials of the Chihuahua state Judiciary in human rights and gender equality. [FN511]

[FN511] Cf. Articles 135 and 145-k of the Organic Law of the Judiciary of the state of Chihuahua, supra note 460, folios 14220 and 14226.

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535. The State affirmed that it has provided training with a gender perspective for public officials of the states of the Mexican Republic, including the state of Chihuahua, through training courses for multipliers under the Gender Equity Subprogram. [FN512] It also mentioned that it had offered training to federal public officials under the awareness-raising program with a gender perspective offered by INMUJERES, as well as to public officials from the Federal Government's Public Security Secretariat under the Gender Equity Subprogram. Furthermore, it indicated that, in 2003 and 2004, it had trained personnel of the Public Security Secretariat in basic and specialized topics relating to human rights and public security. The State did not provide evidence of which public officials had been trained.

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[FN512] The Court observes that the case file contains a supporting document for a national training course for multipliers, under the Subprogram on Equity and Application of the Gender Equity Manual; on "Prevention of Domestic Violence," for authorities of the state of Chihuahua Public Security Secretariat, and on "Women's Human Rights and Self-esteem," "Masculinity and Self-esteem," and "Domestic Violence and Assertiveness," for Chihuahua public officials (Cf. Progress and results of actions within the framework of "PROEQUIDAD", organized by the National Women's Institute, Directorate General of Evaluation and Statistics, Evaluation Directorate, from January to December 2005, case file of attachments to the answer to the application, volume XLI, attachment 6, folios 15014 to 15016).
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536. The State indicated that, under strategy 5.4 "to combat gender-based violence and to sanction it more severely" of the 2007-2012 National Development Plan, the Federal Government would implement programs of "awareness-raising and training for the police, doctors, public prosecutors and judges, and for all those responsible for protecting and providing services to women who suffer any type of violence." [FN513]

[FN513] Cf. 2007-2012 National Development Plan, strategy 5.4., supra note 503, folio 15495 to 15792.
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537. The State also referred to the following training provided in 2007: an "International Diploma on Gender and the Criminal System," attended by 41 public officials; [FN514] a "Diploma on Domestic Violence and Human Rights," for 69 members of the state Attorney General's Office; [FN515] the course "Advanced Specialization in the Basics and Principles of Procedural Law and Gender"; [FN516] the course "Domestic Violence: a Problem for Everyone," for personnel of the Alternative Justice Center, the Rapid Response Unit, and the Specialized Unit for Crimes against Liberty, Sexual Safety and the Family. [FN517] For 2008, the State referred to the course on "Forensic Reports in cases of Gender-Based Violence" which was offered to psychologists of the "Directorate to Provide Services to Victims." [FN518] In addition, the "Licentiate in the Provision of Justice" is offered in the state of Chihuahua, and the curriculum includes a course on "Gender Perspective." [FN519]

[FN514] Cf. agreement signed by the Executive Secretary General of the Latin American Forum for Urban Security and Democracy and the Office of the Attorney General for the state of Chihuahua on May 15, 2007 (case file of attachments to the final written arguments of the State, volume L, folios 17675 to 17688).
[FN515] Cf. cooperation agreement for the diploma course "Domestic violence and human rights" signed by the Office of the Attorney General for the state of Chihuahua and the Universidad Nacional Autónoma de Mexico on April 9, 2007 (case file of attachments to the final written arguments of the State, volume L, folio 17689) and report on institutional policies implemented to prevent, investigate, sanction and eliminate violence against women issued by

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the Office of the Attorney General for the state of Chihuahua (case file of attachments to the answer to the application, volume XL, attachments 60, folio 14960).
[FN516] Cf. contract for providing services signed by the Office of the Attorney General of the state of Chihuahua and the Mexican Institute of Applied Sciences and Arts (INMCAA S.A. de C.V.) on February 1, 2007 (case file of attachments to the final written arguments of the State, volume L, folio 17696).
[FN517] The State attached a list from the Center for Criminal and Forensic Studies with the courses offered from 2005 to 2009. It states that a 12-hour course entitled "Domestic violence: a problem for everyone," was offered to 26 people from June 26 to 28, 2007 (case file of attachments to the final written arguments of the State, volume XLIX, folio 17551).
[FN518] On the list of courses held from 2005 to 2009, the State indicated that, in October 2008, the Chihuahua Women's Institute offered the course "Forensic reports in cases of gender-based violence" to 8 psychologists from the state Attorney General's Office who treat victims (Cf. Office of the Attorney General for the state of Chihuahua, Center for Criminal and Forensic Studies, supra note 510, folio 17563).
[FN519] The State attached a list of the training offered in 2005, which refers to a "Licentiate in the provision of justice" involving 549 people (case file of attachments to the final written arguments of the State, volume XLIX, folio 17535).
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538. The Court observes that witness Castro Romero testified that the diploma course on "Gender and Human Rights" was offered by the network of public institutions that provide services to women in abusive situations from October 14 to November 26, 2005. She also referred to the seminar on "International Human Rights Law: Litigation strategies" with the participation of around "60 people, including the Deputy State Attorney-General for the Northern Region and personnel of FEVIM [Office of the Special Prosecutor for Crimes related to Acts of Violence against Women]." [FN520]

[FN520] Cf. statement made before notary public by witness Castro Romero on April 27, 2009, attachment 1 (merits case file, volume VIII, folios 2927 and 2928).
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539. In addition, witness Caballero Rodríguez, an official of the Public Prosecutor's Office in charge of the investigations in this case, stated that he had received training on the American Convention and the Belem do Pará Convention, among other topics. [FN521]

[FN521] Cf. testimony of witness Caballero Rodríguez, supra note 386
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540. The Tribunal appreciates all the training programs with a gender perspective that the State has offered to public officials since 2004, as well as the possible investment of significant resources in this effort. However, since training is an ongoing activity, it must be maintained for a considerable period of time in order to achieve its objectives. [FN522] In addition the Court indicates that training with a gender perspective involves not only learning about laws and

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regulations, but also developing the capacity to recognize the discrimination that women suffer in their daily life. In particular, the training should enable all officials to recognize the effect on women of stereotyped ideas and opinions in relation to the meaning and scope of human rights.

[FN522] Cf. Case of Escher et al. v. Brazil, supra note 46, para. 251.

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541. Consequently, notwithstanding the existence of programs and training sessions for public officials responsible for providing justice in Ciudad Juárez, as well as courses on human rights and gender, the Court orders the State to continue implementing permanent education and training programs and courses in: (i) human rights and gender; (ii) a gender perspective for due diligence in conducting preliminary investigations and judicial proceedings in relation to the discrimination, abuse and murder of women based on their gender, and (iii) elimination of stereotypes of women's role in society.

542. The programs and courses will be addressed to the police, prosecutors, judges, military officials, public servants responsible for providing services and legal assistance to victims of crime, and any local or federal public officials who participate directly or indirectly in prevention, investigation, prosecution, punishment, and reparation. These permanent programs must make special mention of this Judgment and of the international human rights instruments, specifically those concerning gender-based violence, such as the Convention of Belém do Pará and CEDAW, taking into account how certain norms or practices of domestic law, either intentionally or by their results, have discriminatory effects on the daily life of women. The programs must also include studies on the Istanbul Protocol and the United Nations Manual on the Effective Prevention and Investigation of Extralegal, Arbitrary and Summary Executions. The State must provide an annual report on the implementation of the courses and training sessions for three years.

543. In addition, taking into account the situation of discrimination against women acknowledged by the State, the State must offer a program of education for the general public of the State of Chihuahua, in order to overcome this situation. To this end, the State must submit an annual report indicating the activities it has implemented in this regard for three years.

5. Rehabilitation

544. The Commission stated that "Mexico should adopt measures of rehabilitation for the victims' next of kin," which should include "medical and psychological rehabilitation."

545. The representatives asked "that the Mexican State provide medical and psychological treatment through two federal institutions to ensure a high-quality service or […] that it guarantee the remuneration of the specialists who are treating the families until […] the treatment is concluded." This is justified by the fact that "the human rights violations perpetrated against [the three victims] have had a strong impact on their mothers, who have also suffered […] other violations of their fundamental rights." In addition, the representatives affirmed that "the victims' families" have suffered "physical and psychological problems."

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546. The State affirmed that it has provided medical and psychological care to the victims' next of kin through "[t]he Directorate to provide Services to Victims of Crime, attached to the state Attorney General's Office," the "Chihuahua Women's Institute," the "[t]he state of Chihuahua Social Promotion Secretariat […]," and the "Center for Prevention, Protection and Services to Women and Families in Abusive Situations."

547. The Court observes that the State submitted various lists prepared by State institutions [FN523] regarding the supposed medical and psychological care provided to the victims' next of kin. It also notes that witness Camberos Revilla stated that the three mothers received medical treatment and that the State offered psychological treatment to Mrs. González and Mrs. Monreal, but the latter refused to receive it. [FN524] Witness Galindo stated that the state of Chihuahua Social Promotion Secretariat supported the next of kin of Mss. Ramos and González, by supplying medical services and medication. [FN525] According to the testimony of witness Castro Romero, Mrs. González and Mrs. Monreal took part in group therapies entitled "From Pain to Hope." [FN526] Also, during the public hearing, Mrs. González indicated that the State had provided her with medical assistance. [FN527]

[FN523] Cf. List of payments to the General Hospital for mothers of victims of femicides, covering the period from 2002 until May 8, 2007, prepared by the head of social work of that institution and dated May 11, 2007 (case file of attachments to the answer to the application, volume XLI, attachment 133, folio 15138); list of medicines provided by the Social Promotion Directorate to Benita Monárrez Salgado, prepared by the Director of Social Promotion on May 11, 2007 (case file of attachments to the answer to the application, volume XLI, attachment 133, folio 15140); list of medicines provided by the Social Promotion Directorate to Irma Monreal Jaime prepared by the Director of Social Promotion on May 11, 2007 (case file of attachments to the answer to the application, volume XLI, attachment 133, folio 15141); list of medical services provided to individuals belonging to the Victims Support Program prepared by the Director General of the Women's Hospital, on May 11, 2007 (case file of attachments to the answer to the application, volume XLI, attachment 133, folio 15143); list of medical and psychological assistance provided, prepared by the Center for Prevention, Protection and Services to Women and Families in Abusive Situations, on May 11, 2007 (case file of attachments to the answer to the application, volume XLI, attachment 133, folio 15165), and official letter No. Jur/0223/2007 issued by the Chihuahua Women's Institute on May 4, 2004 (case file of attachments to the answer to the application, volume XLI, attachment 133, folios 15173 and 15174).

[FN524] Cf. statement made before notary public by witness Camberos Revilla on April 8, 2009 (merits case file, volume IX, folios 2981 to 2983).

[FN525] Cf. statement made before notary public by witness Galindo López on April 16, 2009 (merits case file, volume X, folios 3308 and 3309).

[FN526] Cf. Testimony given by witness Castro Romero, supra note 520, folios 2922 to 2924.

[FN527] Cf. Testimony given by Mrs. González, supra note 183.

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548. Although the Tribunal appreciates the medical and psychological care that the State has provided to some of the victims, the State did not prove that each of the next of kin had received

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or continues to receive some form of psychological, psychiatric or medical treatment, and did not validate the quality of the care or the consultations, and the progress made by the patients to date.

549. Consequently, as a measure of rehabilitation, the Court orders the State to provide appropriate and effective medical, psychological or psychiatric treatment, immediately and free of charge, through specialized state health institutions to all the next of kin considered victims by this Tribunal in the case sub judice, if they so wish. The State shall ensure that the professionals of the specialized health care institutions who are assigned to treat the victims assess the psychological and physical conditions of each victim, and have sufficient training and experience to treat both the problems of physical health suffered by the next of kin, and also the psychological trauma as a result of the gender-based violence, the absence of a State response, and the impunity. In addition, the treatment must be provided for all the time necessary and include the supply of any medication that may be required. [FN528]

[FN528] Cf. Case of Kawas Fernández v. Honduras, supra note 190, para. 209, and Case of Anzualdo Castro v. Peru, supra note 30, para. 203.

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6. Compensation

550. The State advised that, based on the acknowledgement of partial violation of the right to mental and moral integrity of the next of kin, it had granted, through its local and federal authorities, a series of measures of assistance to repair said violations. [FN529] Hence, the State asked the Court to "analyze the data provided on the material support awarded to the next of kin of [the three victims] in order to determine that it had complied with the international obligation to compensate the victims owing to the acknowledgement of responsibility for the partial violation of said rights."

[FN529] The State quantified the value of the material assistance as follows: $551,874.27 (five hundred and fifty-one thousand eight hundred and seventy-four Mexican pesos with 27/100) for the next of kin of Laura Berenice Ramos Monárrez; $545,358.01 (five hundred and forty-five thousand three hundred and fifty-eight Mexican pesos with 01/100) for the family of Esmeralda Herrera Monreal, and $504,602.62 (five hundred and four thousand six hundred and two Mexican pesos with 62/100) for the next of kin of Claudia Ivette González.

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551. The representatives indicated that "the only special support given to the victims' families […] is the so-called 'Financial Support Fund for the Families of Victims of Murders of Women,' created in 2005 expressly to compensate the families of Ciudad Juárez victims of femicide," and that "it is these amounts that the victims' families have acknowledged as compensation or special payment for reparation of pecuniary damage, although they disagree with the requirements, procedures and conditions for its award because, before it was handed over, they were asked 'to accept' the remains of their daughters and to 'desist' from requesting DNA testing that would prove the family relationship."

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552. The representatives acknowledged that the State had granted the following resources from the Financial Support Fund for the Families of Victims of Murders of Women (hereinafter "the Support Fund"), to the persons listed below:

Next of kin	Amount
Esmeralda Herrera Monreal	
Irma Monreal Jaime	$136,656.00 pesos
Benigno Herrera Monreal	$34,164.00 pesos
Adrián Herrera Monreal	$34,164.00 pesos
Juan Antonio Herrera Monreal	$34,164.00 pesos
Cecilia Herrera Monreal	$34,164.00 pesos
Claudia Ivette González	
Irma Josefina González Rodríguez	$273,312.00 pesos
Laura Berenice Ramos Monárrez	
Benita Monárrez Salgado	$136,656.00 pesos
Daniel Ramos Canales [FN530]	$136,656.00 pesos

[FN530] The Commission did not include the father of Laura Berenice Ramos as a victim in this case.
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553. The representatives also indicated, in general, that the support granted by the State "includes support in kind and support of a social nature, some of which has been granted at the specific request of the victims' next of kin and others who belong to the social support programs that the government of the state of Chihuahua and the federal Government currently provide to the Ciudad Juárez victims of violence against women and femicide." They also stated that the support includes "other social programs that are available and for the benefit of the general public, while attempting to claim that this is all part of an integral pecuniary reparation granted to the victims." Lastly, they indicated that "some support was awarded to the families as part of a program to finance productive projects with the participation of the state and the federal Governments, […] without mentioning that this support was part of a public policy of the federal Government to assist those who wished to set up a business and had insufficient financial resources."

554. The Tribunal observes that the proven support granted to the victims by the State includes: (i) resources from the Support Fund, which represented 50% or more depending on the case, of the total value of the support that the State alleges it granted to the victims' next of kin; [FN531] (ii) support for housing, with resources from the state of Chihuahua Housing Institute (also known as "IVI" for its name in Spanish), for Mrs. González and Adrián Herrera Monreal which, according to the State amounted to $114,200.00 (one hundred and fourteen thousand two hundred Mexican pesos) each, [FN532] and support consisting of a purchase contract with the IVI under which Mrs. Monárrez acquired a property for the sum of $1.00 (one Mexican peso); [FN533] (iii) support for productive projects from a program coordinated by the federal Government through the Social Development Secretariat (SEDESOL): $60,000.00 (sixty

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thousand Mexican pesos) and $83,000.00 (eighty-three thousand Mexican pesos) awarded to Mrs. Monárrez and to Mrs. Monreal, respectively, [FN534] and (iv) various types of assistance consisting of groceries, and other contributions in cash and kind. [FN535]

[FN531] Cf. certification of award of support from the Financial Support Fund for the Families of Victims of Murders of Women in the Municipality of Juárez, Chihuahua: to Benita Monárrez Salgado on November 11, 2005 (case file of attachments to the answer to the application, volume XLI, attachment 133, folios 15069 to 15072); to Daniel Ramos Canales on December 13, 2005 (case file of attachments to the answer to the application, volume XLI, attachment 133, folios 15057 to 15061); to Cecilia Herrera Monreal, Juan Antonio Herrera Monreal, Benigno Herrera Monreal and Adrián Herrera Monreal on November 27, 2006 (case file of attachments to the answer to the application, volume XLIV, attachment 129 and 130, folios 16303 to 16305); to Irma Monreal Jaime on April 27, 2006 (case file of attachments to the answer to the application, volume XLIV, attachments 129 and 130, folios 16327 to 16329), and to Irma Josefina González Rodríguez on November 11, 2005 (case file of attachments to the answer to the application, volume XLV, attachment 132, folios 16527 to 16530).

[FN532] The body of evidence only contains a list of the IVI housing that shows that Mrs. González and Mrs. Monreal each received a property on "Vista del Pino" street. There is also a purchase contract for a property on "Vista del Prado street" in the sum of $30,000.00 (thirty thousand Mexican pesos) signed by Adrían Herrera Monreal. There is no evidence that any of the three houses received was valued at the amount alleged by the State (Cf. list of victims' mothers who have received housing from the Housing Institute, case file of attachments to the answer to the application, volume XLV, attachment 132, folio 16570), and private purchase contract for a property signed by Adrián Herrera Monreal on June 19, 2007, case file of attachments to the answer to the application, volume XLIV, attachment 130, folios 16458 to 16460).

[FN533] Cf. testimony of Mrs. Monárrez, supra note 183. See also, purchase contract signed by Benita Monárrez Salgado on April 18, 2006 (case file of attachments to the answer to the application, volume XLI, attachment 127, folios 15078 and 15079); testimony of witness Camberos Revilla, supra note 524, folio 2982; official letter No. Jur/0223/2007 of the Chihuahua Women's Institute of May 4, 2004 (case file of attachments to the answer to the application, volume XLI, attachment 133, folio 15173), and testimony of witness Galindo López, supra note 525, folio 3308.

[FN534] Cf. receipt of delivery to Benita Monárrez Salgado of $60,000.00 (sixty thousand Mexican pesos) through the program of productive alternatives on May 31, 2005 (case file of attachments to the answer to the application, volume XLIV, attachment 128, folio 16262) and receipt of delivery to Irma Monreal Jaime of $83,660.00 (eighty-three thousand six hundred and sixty Mexican pesos) through the program of productive alternatives on May 31, 2005 (case file of attachments to the answer to the application, volume XLIV, attachment 131, folio 16464).

[FN535] Regarding Laura Berenice Ramos: list of support (groceries) prepared by the Victims Support Program of the Office of the Deputy State Attorney General on March 30, 2004 (case file of attachments to the answer to the application, volume XLI, attachment 133, folio 15094); list of support (meat) prepared by the Victims Support Program of the Office of the Deputy State Attorney General on March 30, 2004 (case file of attachments to the answer to the application, volume XLI, attachment 133, folio 15100); receipt for delivery (meat box) to Benita Monárrez

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Salgado issued by the Crime Victims Support Office on March 30, 2004 (case file of attachments to the answer to the application, volume XLI, attachment 133, folio 15098); receipt for delivery (groceries) to Claudia Ivonne Ramos Monárrez issued by the Crime Victims Support Office April 22, 2004 (case file of attachments to the answer to the application, volume XLI, attachment 133, folio 15103); testimony of witness Galindo López, supra note 525, folios 3305 to 3309; payment receipts issued by the Office of the Deputy State Attorney General in favor of Mrs. Monárrez Salgado on October 29, November 14 and 28, and December 12 and 29, 2003 (case file of attachments to the answer to the application, volume XLI, attachment 133, folios 15109, 15111, 15113, 15115 and 15117); payment receipts No. AFV-00294, AFV-00335, AFV-00376 and one without a number issued by the Chihuahua Women's Institute on May 31, June 15 and 30, and February 3, 2004 (case file of attachments to the answer to the application, volume XLI, attachment 133, folios 15145, 15147, 15151 and 15155); receipt for delivery (heater and gas tank) issued by the Crime Victims Support Unit on February 3, 2004 (case file of attachments to the answer to the application, volume XLI, attachment 133, folio 15233); testimony of witness Camberos Revilla, supra note 524, folios 2981 to 2983, and official letter No. Jur/0223/2007 issued by the Chihuahua Women's Institute on May 4, 2004 (case file of attachments to the answer to the application, volume XLI, attachment 133, folios 15173 and 15174). Regarding Esmeralda Herrera: list of support (meat) prepared by the Victims Support Program of the Office of the Deputy State Attorney General on March 30, 2004 (case file of attachments to the answer to the application, volume XLIV, attachment 130, folio 16277); list of support (groceries) prepared by the Victims Support Program of the Office of the Deputy State Attorney General on March 30, 2004 (case file of attachments to the answer to the application, volume XLIV, attachment 130, folio 16274); receipt for delivery (groceries) issued by the Crime Victims Support Department on March 31, 2004 (case file of attachments to the answer to the application, volume XLIV, attachment 130, folio 16280); payment receipts issued by Office of the Deputy State Attorney General in favor of Mrs. Monreal Jaime on April 29, May 29, June 12, July 10 and 31, August 14 and 28, 2003 (case file of attachments to the answer to the application, volume XLIV, attachment 130, folios 16267, 16268, 16269, 16270, 16271, 16272 and 16273), and testimony of witness Galindo López, supra note 525, folios 3305 to 3309. Regarding Claudia Ivette González: list of support (meat) prepared by the Victims Support Program of the Office of the Deputy State Attorney General on March 30, 2004, (case file of attachments to the answer to the application, volume XLV, attachment 132, folio 16476); list of support (groceries) prepared by the Victims Support Program of the Office of the Deputy State Attorney General on March 30, 2004 (case file of attachments to the answer to the application, volume XLV, attachment 132, folio 16479); record of delivery (meat box) to Irma Josefina González Rodríguez issued by the Crime Victims Support Office on March 30, 2004 (case file of attachments to the answer to the application, volume XLV, attachment 132, folio 16481), and record of delivery (groceries) to Irma Josefina González Rodríguez issued by the Crime Victims Support Office on April 2, 2004 (case file of attachments to the answer to the application, volume XLV, attachment 132, folio 16538). The case file includes a list of cheques issued by the Office of the Deputy State Attorney General, Northern Zone, over the period 2002 to 2006, prepared by the Administrative Department of the Office of the Attorney General for the state of Chihuahua. However, the Court will not examine this list because the State did not relate it to any support, and the amounts do not coincide with any concept alleged by the State. In addition, the State did not attach the cheques that it had supposedly emitted to the probative material (case file of attachments to the answer to the application, volume XLI, attachment 133, folios 15168 to 15172).

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555. The Court observes that there is no evidence for several items of support given by the Chihuahua Women's Institute. Although the State listed them and several authorities testified that they were granted, there are no supporting documents in the body of evidence that would allow this Tribunal to corroborate that they were received by the victims' next of kin. [FN536]

[FN536] Cf. testimony of witness Camberos Revilla, supra note 524, folios 2977 to 2985; official letter No. Jur/0223/2007 issued by the Chihuahua Women's Institute on May 4, 2004 (case file of attachments to the answer to the application, volume XLI, attachment 133, folios 15173 and 15174), and testimony of witness Galindo López, supra note 525, folios 3305 to 3309.
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556. In 2004, the Office of the Attorney General of the Republic signed a contract with a credit institution containing the terms of reference for administration of the Support Fund in the Municipality of Juárez, Chihuahua. In its first regular session on June 29, 2005, the Advisory Council issued "general guidelines for the administration, application and delivery of the resources that, as financial assistance, will be granted to the relatives of the victims of the murders of women in the Municipality of Juárez, Chihuahua." [FN537]

[FN537] Cf. Office of the Special Prosecutor for the Investigation of Crimes related to the Murders of Women in Ciudad Juárez, Informe Final, supra note 87, folio 14598.
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557. The Court observes that, according to the Support Fund's guidelines, "pursuant to the applicable legislation, the financial support granted by the Fund to the victims' next of kin does not constitute compensation for or reparation of damage." [FN538] The Court also notes that on November 11, 2005, the authorized representatives of the fund delivered a cheque to said persons, requiring them to make the following declaration:

....and adds, under oath to speak the truth, that she has received the remains of her daughter, who was called [name of each one of the three victims]; consequently, she will not require any competent authority to conduct a DNA analysis or any other procedure in this regard, because the human remains returned on this occasion correspond, without any doubt, to those of her daughter. [FN539]

[FN538] Cf. decision No. CA/001/05 of the Advisory Council on the application of the Financial Support Fund for the Families of Victims of Murders of Women in the Municipality of Juárez, Chihuahua, of the Office of the Attorney General of the Republic of July 29, 2005 (case file of attachments to the answer to the application, volume XL, attachment 59, folio 14919).
[FN539] Cf. certification of delivery of support from the Support Fund to: Benita Monárrez Salgado on November 11, 2005; Daniel Ramos Canales, on December 13, 2005; Cecilia Herrera Monreal, Juan Antonio Herrera Monreal, Benigno Herrera Monreal and Adrián Herrera Monreal

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on November 27, 2006; Irma Monreal Jaime on April 27, 2006, and Irma Josefina González Rodríguez on November 11, 2005, (case file of attachments to the answer to the application, volume XLI,folios 15057 to 15061,15069 to 15072, and case file of attachments to the the final written arguments of the State, volume XLIV, attachment 128, folios 16303 to 16305, 16327 to 16329, and volume XLV, attachment 131, folios 16527 to 16530).
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558. The Tribunal states that, in no way, can these resources be considered a form of reparation to the victims for pecuniary damage, because the State itself acknowledged that they could not be considered a form of reparation, and because they were granted on condition that the next of kin waive their right of access to justice and to know the truth. Based on the principle nemo auditur propriam turpitudinem allegans (no one should profit from their own wrong or bad intention), which has been included in Article 27 of the Vienna Convention on the Law of Treaties and the jurisprudence of the Tribunal, [FN540] the State cannot invoke in its own favor an agreement signed with the victims that does not comply with the Convention to justify that it has made reparation to them.

[FN540] Cf. International Responsibility for the Promulgation and Enforcement of Laws in Violation of the Convention (Arts. 1 and 2 American Convention on Human Rights). Advisory opinion OC-14/94 of December 9, 1994, para. 35, and Case of Castillo Páez v. Peru. Monitoring Compliance with Judgment. Order of the Inter-American Court of April 3, 2009, fifth considering paragraph.
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559. Regarding the housing support provided with resources from the IVI, consisting of two "pies de casa" (foundations for houses) and the support for productive projects from a program coordinated by the federal Government through the Social Development Secretariat (SEDESOL), the Court refers to its remarks in paragraph 529 and, consequently, does not consider it part of the compensation owed to the victims. [FN541]

[FN541] Mrs. González and Mrs. Monreal acknowledged that they had received the "pies de casas." However, the State did not contest the statement made by one of the mothers during the public hearing in relation to the condition of the buildings, that "we were given a pie de casa [foundations for houses] which is twenty meters or so; it is in a dangerous area, it is in a rubbish dump, […] it is dangerous, it is a high-risk area" (Cf. testimony of Mrs. González, supra note 183). Nor did it contest the testimony of expert witness Azaola Garrido that the pie de casa the State had granted them "[i]s a room of approximately 4 x 4 meters, in a lot far from the city that lacks any kind of services and, at the outset, there was no public transport, which meant that they had to spend up to two hours traveling to their places of work, and there were long periods when the children had to remain alone" (Cf. testimony of expert witness Azaola Garrifo, supra note 186, folio 3370).
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560. Lastly, regarding the support consisting in a purchase contract signed with the IVI, by which Mrs. Monárrez acquired the property referred to in paragraph 554, as well as other types of support consisting in groceries, and other donations in cash and kind, the Tribunal will take them into account when calculating the compensation.

6.1. Pecuniary damage

6.1.1. Consequential damage

561. The representatives indicated that, "owing to the disappearances and subsequent deaths of Esmeralda, Claudia Ivette and Laura Berenice, their respective families incurred in a series of extraordinary expenses, […] emphasizing that these were not limited to the funeral expenses and the burial of the bodies." They stated that, "from the time each victim disappeared, their families had to make different expenditures to print and copy flyers […] to publicize their disappearance"; they also had to pay "special travel and living allowances to some family members […] so they could assist in the search for the victims," and make "extraordinary payments for telephone calls and other miscellaneous expenses during the weeks they were disappeared." The representatives also indicated that, although they do not have supporting documentation, they consider it pertinent that the Court grant general compensation of US$150.00 (one hundred and fifty United States dollars) for each week of disappearance until the time the bodies were found, to be distributed as follows: (i) for Esmeralda Herrera, US$150.00 (one hundred and fifty United States dollars); (ii) for Claudia Ivette González, US$600.00 (six hundred United States dollars), and (iii) for Laura Berenice Ramos, US$1,050.00 (one thousand and fifty United States dollars).

562. The representatives acknowledged that the State had granted special assistance to pay for the funeral services in 2004 and 2006 covering "some of the expenses incurred by Mrs. Monreal and Mrs. González in 2001," calculated at $2,600.00 (two thousand six hundred Mexican pesos) and $6.500.00 (six thousand five hundred Mexican pesos), respectively. Regarding Mrs. Monárrez, they indicated that "there is no record that she received any special assistance."

563. Although they produced no supporting documents for the funeral expenses, the representatives asked the Court to establish the following amounts for consequential damage arising from the funeral expenses incurred by the families of the victims: (i) US$1,000.00 (one thousand United States dollars) for Mrs. Monreal, and reimbursement of the expenses that were not duly paid by the State in 2006; (ii) US$1,000.00 (one thousand United States dollars) for Mrs. González, and reimbursement of the expenses that were not duly paid by the State in 2004, and (iii) US$1,300.00 (one thousand three hundred United States dollars) for Mrs. Monárrez, and reimbursement of the expenses that were never paid by the State.

564. The State submitted a reparation proposal for each victim; with regard to consequential damage, it established that the expenses incurred by the next of kin of the victims as a result of the deaths of the latter could be covered by $10,000.00 (ten thousand Mexican pesos) for each victim, bearing in mind the cost of "funeral expenses" in Ciudad Juárez. In addition, it announced that, in 2006, the Office of the Attorney General for the State of Chihuahua had delivered $3,300.00 (three thousand three hundred Mexican pesos) to the next of kin of

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Esmeralda Herrera to pay for the funeral service [FN542] and, before that, in 2004, the Chihuahua Women's Institute had given Mrs. Monreal and her family $6,500.00 (six thousand five hundred Mexican pesos) as assistance for funeral expenses. [FN543]

[FN542] Cf. testimony of witness Galindo López, supra note 525, folio 3308.
[FN543] Cf. testimony of witness Camberos Revilla, supra note 524, folio 2982.

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565. In view of the failure to submit supporting documents proving that the funeral expenses amounted to the sums requested by the representatives, and taking into account that: (i) the representatives acknowledged that Mrs. Monreal and Mrs. González had received $2,600.00 (two thousand six hundred Mexican pesos) and $6,500.00 (six thousand five hundred Mexican pesos), respectively; (ii) the absence of proof that the State had granted any assistance for funeral expenses to Mrs. Monárrez, and (iii) the State's acknowledgement that, in Ciudad Juárez, funeral expenses amount to $10,000.00 (ten thousand Mexican pesos), this Tribunal considers, in equity, that the following sums should be delivered: to Mrs. Monreal US$550.00 (five hundred and fifty United States dollars), to Mrs. González US$250.00 (two hundred and fifty United States dollars) and to Mrs. Monárrez US$750.00 (seven hundred and fifty United States dollars) for funeral expenses.

566. Regarding special expenses, since: (i) the representatives did not indicate why the Court should order the State to compensate the special expenses, other than for the funerals, incurred by the victims' next of kin, based on the sum of US$150.00 (one hundred and fifty United States dollars) for each week of disappearance until the date on which the bodies were found; (ii) during the hearing, two of the mothers acknowledged, in general, that they had incurred expenses other than the funerals, [FN544] and (iii) the State did not contest this request for expenses specifically, but merely proposed compensation only for "funeral expenses," the Court decides to grant, in equity, for expenses incurred in the search: (i) US$150.00 (one hundred and fifty United States dollars) to Mrs. Monreal; (ii) US$600.00 (six hundred United States dollars) to Mrs. González; and (iii) US$1,050.00 (one thousand and fifty United States dollars) to Mrs. Monárrez.

[FN544] Mrs. González referred to expenses for copies and other items and Mrs. Monárrez referred to expenses for DNA analyses (Cf. testimony of Mrs. Monárrez and Mrs. González, supra note 183).

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567. The compensation established in the preceding paragraph shall be delivered directly to its beneficiaries.

6.1.2. Loss of earnings

568. The representatives alleged that a "more exact" calculation of loss of earnings required taking into account a certain type of "annual increment" with regard to the "daily wage" and the

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“adjusted salary” that the victims received. They also referred to concepts such as an “integration factor” and “progressive wages for subsequent years.” They indicated that all the “factors” that the Court has developed in its jurisprudence and that are related to “weighing the age at the time of death, and the remaining years to complete the average life expectancy in the country in question should be included, as well as an “estimate” of the wages paid for the “type of work carried out by the victims,” and their “professional preparation and opportunities.” They indicated that the Tribunal should not subtract “25% for the personal expenses that the victims could have incurred,” because in the case of Bámaca Velásquez v. Guatemala, “the Court did not subtract this amount.” Lastly, they drew up a formula to calculate the loss of earnings, which they used to estimate the amounts owed to each victim under this heading. [FN545]

[FN545] The representatives exhibited tables calculating the amount of the victims’ loss of earnings, but did not explain how the formula had been developed (case file of attachments to the pleadings and motions brief, volume XXIII, attachment 19, folios 8099 to 8105).

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569. The representatives argued that Esmeralda Herrera worked “as a domestic employee,” received a monthly wage of $3,000.00 (three thousand Mexican pesos) and that, at the time of her death, she was 15 years old. Based on their formula, they calculated that Esmeralda Herrera’s total loss of earnings amounted to $15,520,085.59 (fifteen million five hundred and twenty thousand and eighty-five Mexican pesos with 59/100), which, in their opinion, would equal US$958,029.97 (nine hundred and fifty-eight thousand and twenty-nine United States dollars with 97/100), based on the exchange rate on February 20, 2008.

570. Regarding Claudia Ivette González, the representatives alleged that she worked in a “maquiladora” industry and that, at the time of her death she was 20 years old and earned a monthly salary of $2,000.00 (two thousand Mexican pesos). Based on their formula, they indicated that her loss of earnings amounted to $7,593,561.83 (seven million five hundred and ninety-three thousand five hundred and sixty-one Mexican pesos with 83/100) equaling US$703,107.57 (seven hundred and three thousand one hundred and seven United States dollars with 57/100).

571. In relation to Laura Berenice Ramos, the representatives indicated that, at the time of her disappearance she was 17 years of age, she worked in a restaurant as a cashier and received a monthly salary of $4,600.00 (four thousand six hundred Mexican pesos). Based on their formula, they indicated that her loss of earnings amounted to $20,400,026.75 (twenty million four hundred thousand and twenty-six Mexican pesos with 75/100), equal to US$1,888,891.36 (one million eight hundred and eighty-eight thousand eight hundred and ninety-one United States dollars with 36/100).

572. In their final arguments, the representatives advised that the total United States dollar equivalent for the loss of earnings of Esmeralda Herrera at the rate of exchange on June 12, 2009, was US$772,143.56 (seven hundred and seventy-two thousand one hundred and forty-three United States dollars with 56/100), and that of Mss. González and Ramos, US$566,683.71 (five hundred and sixty-six thousand six hundred and eighty-three United States dollars with

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71/100) and US$1,522,390.00 (one million five hundred and twenty-two thousand three hundred and ninety United States dollars), respectively.

573. The State, for its part, reported that Esmeralda Herrera carried out "domestic cleaning" tasks and that, in the State of Chihuahua, the average wage for this type of work is $31,200.00 (thirty-one thousand two hundred Mexican pesos) a year, in other words, $2,600.00 (two thousand six hundred Mexican pesos) a month. The State indicated that Esmeralda Herrera died in November 2001, when the average life expectancy in Mexico for women was 76.7 years, according to the National Institute of Geographic and Statistical Information (INEGI) [FN546] and that, taking into account that the victim was 15 years of age when her death occurred, the State considered that, as a result of the death of Esmeralda Herrera, the loss of earnings to her next of kin is $1,903,200.00 (one million nine hundred and three thousand two hundred Mexican pesos).

[FN546] For the life expectancy rates in Mexico for women, the State referred to the official page of the National Institute of Geographical and Statistical Information (INEGI): www.inegi.gob.mx. This page shows that the average life expectancy was taken from the National Population Council of Mexico (CONAPO).
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574. Regarding Claudia Ivette González, the State alleged that she was known to work in a "maquiladora" company and established that, estimating what she would have been receiving at the time of her death and what is currently paid for this type of labor, her approximate total salary was $31.200.00 (thirty-one thousand two hundred Mexican pesos) a year. Taking into account the life expectancy in Mexico and considering that the victim was 20 years old at the time of her death, the State indicated that the loss of earnings to the next of kin of Claudia Ivette González amounts to $1,747,200.00 (one million seven hundred and forty-seven thousand two hundred Mexican pesos).

575. In relation to Laura Berenice Ramos, the State alleged that it had information that she "was not working" prior to her death. However, in this case, the State based its calculation on the same annual earnings as it had considered for the two previous victims; namely $31,200.00 (thirty-one thousand two hundred Mexican pesos) a year. Taking into account the life expectancy and that the victim was 17 years old when her death occurred, the State considered that the loss of earnings to the victim's next of kin amounts to $1,840,800.00 (one million eight hundred and forty thousand eight hundred Mexican pesos).

576. The Court observes that: (i) the average life expectancy figures presented by the representatives and the State both refer to the same national source, since they obtained their data from INEGI and the United Nations Development Program for the Mexican National Population Council (hereinafter the "CONAPO"); (ii) the average life expectancies differ by 1.2 years, with the State's proposal being lower. However, according to the CONAPO's basic indicators, the average life expectancy of women in the State of Chihuahua in 2001 was 76.97; (iii) Mss. Herrera, González and Ramos, were aged 15, 20 and 17 years at the time of their disappearance,

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and (iv) neither the monthly wage of each victim proposed by the representatives nor the monthly wage proposed by the State are supported by any evidence.

577. Based on the foregoing, the Tribunal concludes that the State's offer to compensate loss of earnings (supra para. 573, 574 and 575) is adequate. It therefore takes it into account and, in equity, decides to establish the following amounts that the State must grant:

Victim	Amount
Esmeralda Herrera Monreal	US $145,500.00
Claudia Ivette González	US $134,000.00
Laura Berenice Ramos Monárrez	US $140,500.00

578. These amounts shall be distributed in accordance with the laws on inheritance currently in force in the state of Chihuahua, Mexico.

6.2. Non-pecuniary damage

579. In its jurisprudence, the Court has determined different ways in which non-pecuniary damage can be repaired. [FN547]

[FN547] Non-pecuniary damage may comprise the pain and suffering caused to the direct victim and the next of kin, the impairment of values that are significant to an individual, and also the non-pecuniary damage caused by alterations in the living conditions of the victim and their next of kin. Since it is not possible to allocate a precise monetary amount to such damage, it can only be compensated by the payment of a sum of money or the delivery of goods or services with a pecuniary value established by the Court, in equity, as well as by acts or works of a public scope or impact designed to acknowledge the dignity of the victim and avoid the occurrence of human rights violations. (Cf. Case of Anzualdo Castro v. Peru, supra note 30, para. 218, and Case of Dacosta Cadogan v. Barbados, supra note 446, para. 111).

6.2.1. Moral damage

580. In their brief, the representatives listed the non-pecuniary effects suffered by the victims' next of kin and quantified the moral damage as follows: (i) US$120,000.00 (one hundred and twenty thousand United States dollars) for the mothers of Esmeralda Herrera Monreal and Laura Berenice Ramos Monárrez; (ii) US$150,000.00 (one hundred and fifty thousand United States dollars) for the mother of Claudia Ivette González; (iii) US$50,000.00 (fifty thousand United States dollars) for each sibling of the victims, and (iv) US$25,000.00 (twenty-five thousand United States dollars) for each of the other next of kin.

581. As compensation for the suffering caused to the three victims' next of kin, owing to the irregularities committed by the public officials who took part in the investigation of the three cases up until 2004, the State offered to provide the sum of US$10,000.00 (ten thousand United States dollars) or the equivalent in Mexican pesos to each family member.

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582. International case law has established repeatedly that a judgment declaring a violation of rights constitutes, per se, a form of reparation. [FN548] Nevertheless, the Tribunal finds it pertinent to determine the payment of compensation for non-pecuniary damage in favor of the next of kin of Mss. Herrera, González and Ramos, considered victims of the violation of Article 5 of the American Convention, in relation to Article 1(1) thereof.

[FN548] Cf. Case of Neira Alegría et al. v. Peru. Reparations and Costs. Judgment of September 19, 1996. Series C No. 29, para. 56; Case of Anzualdo Castro v. Peru, supra note 30, para. 219, and Case of Dacosta Cadogan v. Barbados, supra note 446, para. 100.

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583. The Court concludes that the mental and moral integrity of the next of kin was and continues to be affected by three factors: (i) the deprivation of liberty, ill-treatment and death suffered by Mss. Herrera, González and Ramos; (ii) the irregularities in the investigation conducted by the authorities and the impunity, and (iii) the harassment suffered by the next of kin, indicated in paragraph 440 supra.

584. Taking the foregoing into account, as well as the contents of paragraph 560 supra, and considering that the State's offer to pay US$10,000.00 (ten thousand United States dollars) to each of the victims' next of kin is reasonable, the Court decides to use this sum as a basis, and (i) to include the next of kin who were declared victims in this case and who were not considered in the State's offer; (ii) to increase this amount by US$1,000.00 (one thousand United States dollars) for each of the next of kin, as a form of reparation for the non-pecuniary damage produced by the violations that the State has not acknowledged; (iii) to increase the resulting amount by US$4,000.00 (four thousand United States dollars) in favor of the three mothers, because they where the ones that had to seek justice; (iv) to increase the resulting amount by US$1,000.00 (one thousand United States dollars) in favor of Adrián Herrera Monreal, Claudia Ivonne, and Daniel Ramos Monárrez; Ramón Antonio Aragón Monárrez, and Claudia Dayana, Itzel Arely, and Paola Alexandra Bermúdez Ramos owing to the acts of harassment they suffered, and (iv) to increase the resulting amount by US$3,000.00 (three thousand United States dollars) in favor of Benita Ramos Salgado, owing to the acts of harassment she suffered.

585. Furthermore, even though the representatives did not request it, the Tribunal deems it appropriate to order the State to compensate Mss. Herrera, Ramos and González, for the failure to ensure their rights to life, personal integrity and personal liberty. To establish the corresponding amount, the Court bears in mind its jurisprudence in similar cases, [FN549] the context in which the facts occurred, the age of the victims and the consequent special obligations of the State for the protection of the child, and the gender-based violence that the three victims suffered. Accordingly, it establishes, in equity, the sum of US$38,000.00 (thirty-eight thousand United States dollars) in favor of Claudia Ivette González and US$40,000.00 (forty thousand United States dollars) for each of the minors, Esmeralda Herrera Monreal and Laura Berenice Ramos Monárrez. These amounts shall be distributed in accordance with the current laws on inheritance in the state of Chihuahua, Mexico.

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[FN549] Cf. Case of the "Mapiripán Massacre" v. Colombia, supra note 252, para. 288; Case of Heliodoro Portugal v. Panamá, supra note 297, para. 239, and Case of Kawas Fernández v. Honduras, supra note 190, para. 184.
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586. The State shall therefore deliver the following amounts:

Victim	Relationship	Amount
Esmeralda Herrera Monreal		US$40,000.00
Irma Monreal Jaime	Mother	US$15,000.00
Benigno Herrera Monreal	Brother	US$11,000.00
Adrián Herrera Monreal	Brother	US$12,000.00
Juan Antonio Herrera Monreal	Brother	US$11,000.00
Cecilia Herrera Monreal	Sister	US$11,000.00
Zulema Montijo Monreal	Sister	US$11,000.00
Erick Montijo Monreal	Brother	US$11,000.00
Juana Ballín Castro	Sister-in-law	US$11,000.00
Claudia Ivette González		US$38,000.00
Irma Josefina González Rodríguez	Mother	US$15,000.00
Mayela Banda González	Sister	US$11,000.00
Gema Iris González	Sister	US$11,000.00
Karla Arizbeth Hernández Banda	Niece	US$11,000.00
Jacqueline Hernández	Niece	US$11,000.00
Carlos Hernández Llamas	Brother-in-law	US$11,000.00
Laura Berenice Ramos Monárrez		US$40,000.00
Benita Monárrez Salgado	Mother	US$18,000.00
Claudia Ivonne Ramos Monárrez	Sister	US$12,000.00
Daniel Ramos Monárrez	Brother	US$12,000.00
Ramón Antonio Aragón Monárrez	Brother	US$12,000.00
Claudia Dayana Bermúdez Ramos	Niece	US$12,000.00
Itzel Arely Bermúdez Ramos	Niece	US$12,000.00
Paola Alexandra Bermúdez Ramos	Niece	US$12,000.00
Atziri Geraldine Bermúdez Ramos	Niece	US$12,000.00

6.2.2. Damage to the victims' life project

587. The representatives alleged that Mss. Herrera, González and Ramos, suffered damage to their life project for various reasons.

588. The Commission and the State did not submit any arguments in this regard.

589. In addition to the fact that the representatives did not submit sufficient arguments on how the acts of the State affected the life project Mss. Herrera, González and Ramos, the Tribunal maintains that reparation for harm to the life project is not in order when the victim is deceased,

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since it is impossible to restore the individual's reasonable expectations of realizing a life project. Consequently, the Court will abstain from giving any further consideration to this point.

7. Costs and expenses

590. As the Court has indicated previously, costs and expenses are included in the concept of reparation established in Article 63(1) of the American Convention. [FN550]

[FN550] Cf. Case of Garrido and Baigorria v. Argentina. Reparations and Costs. Judgment of August 27, 1998. Series C No. 39, para. 79; Case of Perozo et al. v. Venezuela, supra note 22, para. 417, and Case of Garibaldi v. Brazil, supra note 252, para. 194.

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591. The Commission asked that the State be ordered to pay the duly authenticated reasonable and necessary costs and expenses arising from processing this case at the domestic level and before the Inter-American system.

592. The representatives requested the payment of expenses and costs at the national and international levels during the processing of the case, based on amounts calculated as follows:

a. The Asociación Nacional de Abogados Democráticos A.C. (ANAD) calculated its costs and expenses for travel to Mexico City, travel to Washington D.C., per diems for accommodation and meals in Ciudad Juárez from 2005 to 2008, payment of legal fees and other expenses at US$44,776.11 (forty-four thousand seven hundred and seventy-six United States dollars with 11/100).
b. The Centro para el Desarrollo Integral de la Mujer (CEDIMAC) calculated that it had incurred in costs and expenses for investigations from 2003 to 2007, legal representation, and expenses for psychological treatment and clinical care of US$205,351.85 (two hundred and five thousand three hundred and fifty-one United States dollars with 85/100).
c. The Latin American and Caribbean Committee for the Defense of the Rights of Women (CLADEM) calculated its costs and expenses for air travel to Mexico City, visits to Washington D.C., payment of professional fees and other expenses at US$14,490.74 (fourteen thousand four hundred and ninety United States dollars with 74/100).
d. The Red Ciudadana de la No Violencia y Dignidad Humana, calculated its costs and expenses as totaling US$33,230.00 (thirty-three thousand two hundred and thirty United States dollars), for a public consult carried in March 2002, travel, accommodation and meals during trips to Mexico City from 2003 to 2005, a trip to Washington D.C. in October 2006, professional fees, and other expenses.

593. The State indicated that, "at the domestic level, the expenses and costs that the victims' next of kin could have incurred were covered by the State." It also indicated that it was unaware of the costs and expenses that may have been incurred at the international level. Despite this, the State considered that, if each victim's mother had attended meetings at the Commission's seat three times, each one should receive approximately $81,500.00 (eighty-one thousand five hundred Mexican pesos) to cover transport and accommodation. Lastly, the State added that it

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could not recognize the organizations that represent the victims as victims in the proceedings and therefore, it was not possible to obtain monetary sums in their favor, because only the victims can receive reimbursement of expenses in reparation, and that receiving the sum of US$284,498.00 (two hundred and eighty-four thousand four hundred and ninety-eight United States dollars) "would be absurd and contrary to equity, because it was more than the amount of compensation requested for each of the three victims in this case."

594. The Tribunal clarifies that, contrary to measures of compensation, costs and expenses are not granted to those who have been declared victims, because costs are not a form of compensation. Depending on the circumstances of the case, they must be granted to the person or organization that represented the victim. The reimbursement is justified because those who have not committed the violation should not be caused financial prejudice. The expense corresponds to the State, if its international responsibility in the matter has been proven.

595. The victims' representatives did not provide any probative element to authenticate their alleged expenses. In this regard, the Tribunal has indicated that "the claims of the victims or their representatives for costs and expenses, and the evidence to support them, must be submitted to the Court at the first procedural opportunity granted to them, namely, in the pleadings and motions brief; nevertheless these claims can be updated subsequently, in keeping with the new costs and expenses incurred owing to the proceedings before this Tribunal." [FN551]

[FN551] Cf. Case of Chaparro Álvarez and Lapo Íñiguez. v. Ecuador, supra note 265, para. 275; Case of Escher et al. v. Brazil, supra note 46, para. 259, and Case of Tristán Donoso v. Panamá, supra note 9, para. 215.
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596. The Court observes that, for expenses and costs, the State offered to pay the sum of $244,500.00 (two hundred and forty-four thousand five hundred Mexican pesos) for the meetings of the mothers of Mss. Herrera, Ramos and González, held before the Inter-American Commission. The Tribunal also observes that the representatives did not comment on the State's affirmation that, in the domestic jurisdiction, the costs had been covered. However, the Court also notes that the victims' representatives incurred expenses to attend the public hearing of the case held in Santiago, Chile, as well as expenses relating to the exercise of their legal representation, such as for forwarding their briefs and for communication expenses, during the proceedings before this Tribunal. Taking this into account, and given the absence of vouchers for these expenses, it establishes, in equity, that the State shall deliver the sum of US$45,000.00 (forty-five thousand United States dollars) to the mothers of Mss. Herrera, Ramos and González, who shall each deliver the amount they deem adequate to their representatives, for costs and expenses. This amount includes any future expenses that they may incur during monitoring compliance with this judgment and it shall be delivered within one year of notification of this judgment.

8. Means of compliance with the payments ordered

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597. The payment of the compensation and the reimbursement of costs and expenses established in this Judgment shall be made directly to the persons indicated in the Judgment, within one year of its notification, according to the provisions of paragraphs 578 and 585 hereof. If any beneficiary should die before payment of the respective amounts, these shall be delivered to the heirs, in accordance with applicable domestic law.

598. The State shall comply with its pecuniary obligations by payment in United States dollars or the equivalent amount in national currency, using the exchange rate in force in the New York stock market the day before the payment is made.

599. If, for causes that can be attributed to the beneficiaries of the compensation or their heirs, it is not possible to pay the amounts established within the time specified, the State shall deposit said amounts in an account or a certificate of deposit in their favor in a solvent Mexican financial institution, in the most favorable financial conditions allowed by banking practice and law. If, after 10 years, the amount allocated has not been claimed, it shall be returned to the State with the accrued interest.

600. The amounts assigned in this Judgment as compensation and reimbursement of costs and expenses may not be affected or conditioned by any current or future taxes or charges. Consequently, they must be delivered to the beneficiaries in full, as established in this Judgment.

601. If the State falls into arrears, it shall pay interest on the amount owed, corresponding to the bank interest on arrears in Mexico.

X. OPERATIVE PARAGRAPHS

602. Therefore,

THE COURT

DECIDES,

Unanimously,

1. To partially accept the preliminary objection filed by the State, in accordance with paragraphs 31 and 80 of this Judgment and, consequently, to declare that: (i) it has contentious jurisdiction rationae materiae to examine alleged violations of Article 7 of the Convention of Belém do Pará, and (ii) it does not have contentious jurisdiction rationae materiae to examine alleged violations of Articles 8 and 9 of that international instrument.
2. To accept the partial acknowledgement of international responsibility made by the State, in the terms of paragraphs 20 to 30 of this Judgment.

DECLARES,

unanimously that,

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3. The State cannot be attributed with international responsibility for violations of the substantive rights embodied in Articles 4 (Right to Life), 5 (Right to Humane Treatment), and 7 (Right to Personal Liberty) of the American Convention on Human Rights, arising from the failure to comply with the obligation to respect contained in Article 1(1) thereof, in accordance with paragraphs 238 to 242 of this judgment.

4. The State violated the rights to life, personal integrity and personal liberty recognized in Articles 4(1), 5(1), 5(2), and 7(1) of the American Convention, in connection with the general obligation to guarantee such rights established in Article 1(1), and the obligation to adopt domestic legal provisions established in Article 2 thereof, and to the obligations established in Article 7(b) and 7(c) of the Convention of Belém do Pará, to the detriment of Claudia Ivette González, Laura Berenice Ramos Monárrez and Esmeralda Herrera Monreal, in the terms of paragraphs 243 to 286 of this Judgment.

5. The State failed to comply with its obligation to investigate – and thereby guarantee – the rights to life, personal integrity and personal liberty established in Articles 4(1), 5(1), 5(2), and 7(1) of the American Convention, in connection to Articles 1(1) and 2 thereof, and Article 7(b) and 7(c) of the Convention of Belém do Pará, to the detriment of Claudia Ivette González, Laura Berenice Ramos Monárrez and Esmeralda Herrera Monreal. For the same reasons, the State violated the rights of access to justice and to judicial protection, embodied in Articles 8(1) and 25(1) of the American Convention, in connection to Articles 1(1) and 2 thereof, and 7(b) and 7(c) of the Convention of Belém do Pará, to the detriment of: Irma Monreal Jaime, Benigno Herrera Monreal, Adrián Herrera Monreal, Juan Antonio Herrera Monreal, Cecilia Herrera Monreal, Zulema Montijo Monreal, Erick Montijo Monreal, Juana Ballín Castro, Irma Josefina González Rodríguez, Mayela Banda González, Gema Iris González, Karla Arizbeth Hernández Banda, Jacqueline Hernández, Carlos Hernández Llamas, Benita Monárrez Salgado, Claudia Ivonne Ramos Monárrez, Daniel Ramos Monárrez, Ramón Antonio Aragón Monárrez, Claudia Dayana Bermúdez Ramos, Itzel Arely Bermúdez Ramos, Paola Alexandra Bermúdez Ramos, and Atziri Geraldine Bermúdez Ramos, in accordance with paragraphs 287 to 389 of this Judgment.

6. The State violated the obligation not to discriminate contained in Article 1(1) of the American Convention, in connection to the obligation to guarantee the rights to life, personal integrity and personal liberty established in Articles 4(1), 5(1), 5(2) and 7(1) thereof, to the detriment of Laura Berenice Ramos Monárrez, Esmeralda Herrera Monreal and Claudia Ivette González; and also in relation to access to justice embodied in Articles 8(1) and 25(1) of said Convention, to the detriment of Irma Monreal Jaime, Benigno Herrera Monreal, Adrián Herrera Monreal, Juan Antonio Herrera Monreal, Cecilia Herrera Monreal, Zulema Montijo Monreal, Erick Montijo Monreal, Juana Ballín Castro, Irma Josefina González Rodríguez, Mayela Banda González, Gema Iris González, Karla Arizbeth Hernández Banda, Jacqueline Hernández, Carlos Hernández Llamas, Benita Monárrez Salgado, Claudia Ivonne Ramos Monárrez, Daniel Ramos Monárrez, Ramón Antonio Aragón Monárrez, Claudia Dayana Bermúdez Ramos, Itzel Arely Bermúdez Ramos, Paola Alexandra Bermúdez Ramos, and Atziri Geraldine Bermúdez Ramos, in the terms of paragraphs 390 to 402 of this Judgment.

7. The State violated the rights of the child, embodied in Article 19 of the American Convention, in relation to Articles 1(1) and 2 thereof, to the detriment of the girls Esmeralda Herrera Monreal and Laura Berenice Ramos Monárrez, in accordance with paragraphs 403 to 411 of this Judgment.

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8. The State violated the right to personal integrity recognized in Article 5(1) and 5(2) of the American Convention, in connection to Article 1(1) thereof, due to the suffering caused to Irma Monreal Jaime, Benigno Herrera Monreal, Adrián Herrera Monreal, Juan Antonio Herrera Monreal, Cecilia Herrera Monreal, Zulema Montijo Monreal, Erick Montijo Monreal, Juana Ballín Castro, Irma Josefina González Rodríguez, Mayela Banda González, Gema Iris González, Karla Arizbeth Hernández Banda, Jacqueline Hernández, Carlos Hernández Llamas, Benita Monárrez Salgado, Claudia Ivonne Ramos Monárrez, Daniel Ramos Monárrez, Ramón Antonio Aragón Monárrez, Claudia Dayana Bermúdez Ramos, Itzel Arely Bermúdez Ramos, Paola Alexandra Bermúdez Ramos, and Atziri Geraldine Bermúdez Ramos, in the terms of paragraphs 413 to 424 of this Judgment.
9. The State violated the right to personal integrity contained in Article 5(1) and 5(2) of the American Convention, in connection to Article 1(1) thereof, due to the acts of harassment suffered by: Adrián Herrera Monreal, Benita Monárrez Salgado, Claudia Ivonne Ramos Monárrez, Daniel Ramos Monárrez, Ramón Antonio Aragón Monárrez, Claudia Dayana Bermúdez Ramos, Itzel Arely Bermúdez Ramos, Paola Alexandra Bermúdez Ramos, and Atziri Geraldine Bermúdez Ramos, in the terms of paragraphs 425 to 440 of this Judgment.
10. The State did not violate the right to privacy (honor and dignity) embodied in Article 11 of the American Convention, in the terms of paragraphs 441 to 445 of this judgment.

AND ORDERS,

unanimously that,

11. This judgment constitutes per se a form of reparation.
12. The State shall, in accordance with paragraphs 452 to 455 of this Judgment, conduct the criminal proceeding that is underway effectively and, if applicable, any that are opened in the future to identify, prosecute and, if appropriate, punish the perpetrators and masterminds of the disappearances, ill-treatments and deprivations of life of Mss. González, Herrera and Ramos, in accordance with the following directives:

i) All legal or factual obstacles to the due investigation of the facts and the execution of the respective judicial proceedings shall be removed, and all available means used, to ensure that the investigations and judicial proceedings are prompt so as to avoid a repetition of the same or similar facts as those of the present case;

ii) The investigation shall include a gender perspective; undertake specific lines of inquiry concerning sexual violence, which must involve lines of inquiry into the respective patterns in the zone; be conducted in accordance with protocols and manuals that comply with the guidelines set out in this Judgment; provide the victims' next of kin with information on progress in the investigation regularly and give them full access to the case files, and be conducted by officials who are highly trained in similar cases and in dealing with victims of discrimination and gender-based violence;

iii) The different entities that take part in the investigation procedures and in the judicial proceedings shall have the necessary human and material resources to perform their tasks adequately, independently and impartially, and those who take part in the investigation shall be given due guarantees for their safety, and

iv) The results of the proceedings shall be published so that the Mexican society learns of the facts that are the object of the present case.

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13. The State shall, within a reasonable time, investigate, through the competent public institutions, the officials accused of irregularities and, after an appropriate proceeding, apply the corresponding administrative, disciplinary or criminal sanctions to those found responsible, in accordance with paragraphs 456 to 460 of this Judgment.

14. The State shall, within a reasonable time, conduct the corresponding investigation and, if appropriate, punish those responsible for the harassment of Adrián Herrera Monreal, Benita Monárrez Salgado, Claudia Ivonne Ramos Monárrez, Daniel Ramos Monárrez, Ramón Antonio Aragón Monárrez, Claudia Dayana Bermúdez Ramos, Itzel Arely Bermúdez Ramos, Paola Alexandra Bermúdez Ramos and Atziri Geraldine Bermúdez Ramos, in accordance with paragraphs 461 and 462 of this Judgment.

15. The State shall, within six months of notification of this Judgment, publish once in the Official Gazette of the Federation, in a daily newspaper with widespread national circulation and in a daily newspaper with widespread circulation in the state of Chihuahua, paragraphs 113 to 136, 146 to 168, 171 to 181, 185 to 195, 198 to 209 and 212 to 221 of the present Judgment, and the operative paragraphs, without the corresponding footnotes. Additionally, the State shall, within the same time frame, publish this Judgment in its entirety on an official web page of the State. The foregoing in accordance with paragraph 468 hereof.

16. The State shall, within one year of notification of this Judgment, organize a public act to acknowledge its international responsibility in relation to the facts of this case so as to honor the memory of Laura Berenice Ramos Monárrez, Esmeralda Herrera Monreal and Claudia Ivette González, in the terms of paragraphs 469 and 470 of this Judgment.

17. The State shall, within one year of notification of this Judgment, erect a monument in memory of the women victims of gender-based murders in Ciudad Juárez, in the terms of paragraphs 471 and 472 of the present Judgment. The monument shall be unveiled at the ceremony during which the State publicly acknowledges its international responsibility, in compliance with the decision of the Court specified in the preceding operative paragraph.

18. The State shall, within a reasonable time, continue standardizing all its protocols, manuals, prosecutorial investigation criteria, expert services, and services to provide justice that are used to investigate all the crimes relating to the disappearance, sexual abuse and murders of women in accordance with the Istanbul Protocol, the United Nations Manual on the Effective Prevention and Investigation of Extralegal, Arbitrary and Summary Executions, and the international standards to search for disappeared persons, based on a gender perspective, in accordance with paragraphs 497 to 502 of this Judgment. In this regard, an annual report shall be presented for three years.

19. The State shall, within a reasonable time, and in accordance with paragraphs 503 to 506 of this Judgment, adapt the Alba Protocol or else implement a similar new mechanism, pursuant to the following directives, and shall present an annual report for three years:

(i) Implement searches ex officio and without any delay, in cases of disappearance, as a measure designed to protect the life, personal liberty and personal integrity of the disappeared person;

(ii) Establish coordination among the different security agencies in order to find the person;

(iii) Eliminate any factual or legal obstacles that reduce the effectiveness of the search or that prevent it from starting, such as requiring preliminary inquiries or procedures;

(iv) Allocate the human, financial, logistic, scientific or any other type of resource required for the success of the search;

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(v) Verify the missing report against the database of disappeared persons referred to in paragraphs 509 to 512 supra, and

(vi) Give priority to searching areas where reason dictates that it is most probable to find the disappeared person, without disregarding arbitrarily other possibilities or areas. All of the above must be even more urgent and rigorous when it is a girl who has disappeared.

20. The State shall create, within six months of notification of this Judgment, a web page that it must update continually with the necessary personal information on all the women and girls who have disappeared in Chihuahua since 1993 and who remain missing. This web page must allow any individual to communicate with the authorities by any means, including anonymously, to provide relevant information on the whereabouts of the disappeared women or girls or, if applicable, of their remains, in accordance with paragraphs 507 and 508 of the present Judgment.

21. The State shall, within one year of notification of this Judgment and in accordance with paragraphs 509 to 512 hereof, create or update a database with:

(i) The personal information available on disappeared women and girls at the national level:

(ii) The necessary personal information, principally DNA and tissue samples, of the next of kin of the disappeared who consent to this – or that is ordered by a judge – so that the State can store this personal information solely in order to locate a disappeared person, and

(iii) The genetic information and tissue samples from the body of any unidentified woman or girl deprived of life in the state of Chihuahua.

22. The State shall continue implementing permanent education and training programs and courses for public officials on human rights and gender, and on a gender perspective to ensure due diligence in conducting preliminary inquiries and judicial proceedings concerning gender-based discrimination, abuse and murder of women, and to overcome stereotyping about the role of women in society, in the terms of paragraphs 531 to 542 of this Judgment. Every year, for three years, the State shall report on the implementation of the courses and training sessions.

23. The State shall, within a reasonable time, conduct an educational program for the general population of the state of Chihuahua so as to overcome said situation. In this regard, the State shall present an annual report for three years, indicating the measures it has taken to this end, in the terms of paragraph 543 of this Judgment.

24. The State shall provide appropriate and effective medical, psychological or psychiatric treatment, immediately and free of charge, through its specialized health institutions to Irma Monreal Jaime, Benigno Herrera Monreal, Adrián Herrera Monreal, Juan Antonio Herrera Monreal, Cecilia Herrera Monreal, Zulema Montijo Monreal, Erick Montijo Monreal, Juana Ballín Castro, Irma Josefina González Rodríguez, Mayela Banda González, Gema Iris González, Karla Arizbeth Hernández Banda, Jacqueline Hernández, Carlos Hernández Llamas, Benita Monárrez Salgado, Claudia Ivonne Ramos Monárrez, Daniel Ramos Monárrez, Ramón Antonio Aragón Monárrez, Claudia Dayana Bermúdez Ramos, Itzel Arely Bermúdez Ramos, Paola Alexandra Bermúdez Ramos and Atziri Geraldine Bermúdez Ramos, if they so wish, in the terms of paragraphs 544 to 549 of this Judgment.

25. The State shall, within one year of notification of the present Judgment, pay the amounts established in paragraphs 565, 566, 577, 586 and 596 hereof as compensation for pecuniary and non-pecuniary damage and reimbursement of costs and expenses, as appropriate, under the conditions and in the terms of paragraphs 597 to 601 of this Judgment.

26. The Court will monitor full compliance with this Judgment in exercise of its powers and in compliance with its obligations under the American Convention, and will consider the case

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closed when the State has complied in full with all the provisions herein. Within one year of notification of the Judgment, the State shall provide the Court with a report on the measures adopted to comply with it.

Judge Cecilia Medina Quiroga and Judge Diego García-Sayán informed the Court of their concurring opinions, which accompany the present Judgment.

Done, at San José, Costa Rica, on November 16, 2009, in the Spanish and the English languages, the Spanish text being authentic.

Cecilia Medina Quiroga
President

Diego García-Sayán
Manuel E. Ventura Robles
Margarette May Macaulay
Rhadys Abreu Blondet

Rosa María Álvarez González
Judge Ad Hoc

Pablo Saavedra Alessandri
Secretary

So ordered,

Cecilia Medina Quiroga
President

Pablo Saavedra Alessandri
Secretary

CONCURRING OPION OF JUDGE DIEGO GARCIA-SAYAN IN RELATION TO THE JUDGMENT OF THE INTER-AMERICAN COURT OF HUMAN RIGHTS IN THE CASE OF GONZÁLEZ ET AL. ("COTTON FIELD") V. MEXICO, OF NOVEMBER 16, 2009

1. Violence against women is a tragedy with different dimensions and symptoms. Without doubt, it is one of most extended and persistent expressions of discrimination throughout the world, and it is reflected in conduct ranging from subtle and veiled manifestations to inhuman and abusive situations. The violence against women in Ciudad Juárez, of which Claudia Ivette González, Esmeralda Herrera Monreal and Laura Berenice Ramos Monárrez were victims, falls into the latter category, which is the type of violence referred to in this Judgment in the case of González et al. ("Cotton Field") v. Mexico (hereinafter "the Judgment"). As the Inter-American Court of Human Rights (hereinafter "the Inter-American Court," "the Court," or "the Tribunal") states in the Judgment, the facts described have been influenced "by a culture of gender-based discrimination" (para. 164). This culture "has had an impact on both the motives and the method

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of the crimes, as well as on the response of the authorities" (para. 164). According to the Judgment, one example of this was "the ineffective responses and the indifferent attitudes that have been documented in relation to the investigation of these crimes" (para. 164) regarding which the Court has established the State's international responsibility.

2. In the case of the violent acts against women in Ciudad Juárez, the Court has pondered in the Judgment whether the acts perpetrated against the victims that culminated in the deaths of Mss. González, Herrera Monreal and Ramos Monárrez, could be attributed to the State (para. 231). The Court established that it lacked elements to conclude that the perpetrators were State agents (para. 242) and focused its reasoning on the State's possible responsibility for failing to comply with its obligation to guarantee.

3. The issue of the obligation to prevent has been examined by international justice, in general, and by this Court, in particular, with a clear focus, notwithstanding the undoubted complexity of the problem. The Court's jurisprudence has established precise fundamental criteria on the obligation to prevent. These criteria are more specific, evidently, in the case of individuals who are in the custody of the State, as in the case of a center where minors were interned [FN1] or situations in which the State occupies a special position of guarantor, as in the case of an indigenous community that has been displaced because it has been ousted from its land. [FN2]

[FN1] Cf. Case of Ximenes Lopes v. Brazil. Merits, Reparations and Costs. Judgment of July 4, 2006. Series C No. 149.
[FN2] Cf. Case of Yakye Axa Indigenous Community v. Paraguay. Merits, Reparations and Costs. Judgment of June 17, 2005. Series C No. 125

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4. Indeed, in more specific situations such as those in Ximenes Lopes v. Brazil or Yakye Axa v. Paraguay, the Court's criteria have been more precise, because these cases related to human groups occupying spaces under the custody of the State in view of the specific characteristics of the problems in each case. In the case of Ximenes Lopes, the Court established that, since this case related to individuals with mental disabilities who were in the custody or care of the State, [FN3] the State had incurred international responsibility because it had failed to comply with its obligation to "care and prevent the breach of the right to life and humane treatment, as well as […] its duty to regulate and monitor health care services, which are special duties derived from its obligation to guarantee the rights enshrined in Articles 4 and 5 of the American Convention." [FN4] While, in the case of Yakye Axa, which dealt with an indigenous community composed by an identifiable group of families, who had been displaced from their territory and were temporarily living in poverty-stricken conditions in an area alongside the highway, the Court determined that the State had "the duty to take positive, concrete measures geared toward fulfillment of the right to a decent life." [FN5]

[FN3] Cf. Case of Ximenes Lopes v. Brazil, supra note 1, para. 138.
[FN4] Cf. Case of Ximenes Lopes v. Brazil, supra note 1, para. 146.

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[FN5] Cf. Case of Yakye Axa Indigenous Community v. Paraguay, supra note 2, para. 162
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5. Both the European Court of Human Rights (hereinafter "the European Court") and the Inter-American Court have developed precise and rigorous criteria to define the "obligation to prevent" within the framework of more extensive and general situations. In this regard, since 1998, the European Court has adopted decisions in which it has analyzed the complexity of the issue of the obligation to prevent and listed some specific criteria to define it. Thus, in Osman v. the United Kingdom, the European Court took a cautious approach to defining the obligation to prevent, mentioning some specific criteria that have been repeated in its more recent decisions: [FN6]

[FN6] For example, European Court of Human Rights, Kilic v. Turkey (Application no. 22492/93) Judgment Strasbourg, 28 March 2000, para. 63, and Opuz v. Turkey (Application no. 33401/02), Judgment Strasbourg, 9 June 2009. para. 129.

For the Court, and bearing in mind the difficulties involved in policing modern societies, the unpredictability of human conduct and the operational choices which must be made in terms of priorities and resources, such an obligation must be interpreted in a way which does not impose an impossible or disproportionate burden on the authorities. […] In the opinion of the Court where there is an allegation that the authorities have violated their positive obligation to protect the right to life […] it must be established to its satisfaction that the authorities knew or ought to have known at the time of the existence of a real and immediate risk to the life of an identified individual or individuals from the criminal acts of a third party and that they failed to take measures within the scope of their powers which, judged reasonably, might have been expected to avoid that risk. [FN7]

[FN7] Cf. Osman v. The United Kingdom (87/1997/871/1083). Judgment Strasbourg, 28 October 1998, para. 116.
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6. Thus, the European Court stresses the difficulty of guaranteeing public order, the unpredictability of human conduct and the vastness of the operational choices which must be made to determine priorities and allocate resources, and draws the conclusion that the obligation to prevent cannot be interpreted in a way that imposes an impossible or disproportionate burden on the State. From this perspective, it emphasizes the obligation to take "appropriate steps to safeguard the lives of those within its jurisdiction," [FN8] which supposes putting in place effective criminal-law provisions to deter the commission of offenses against the person, backed up by law-enforcement machinery for prevention, suppression and sanctioning. [FN9] In "certain well defined circumstances" [FN10] this obligation may also impose a positive obligation on the authorities to take preventive operational measures to protect an individual whose life is at risk of experiencing the criminal acts of another individual.

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[FN8] Cf. Osman v. The United Kingdom, supra note 7, para. 115
[FN9] Cf. Osman v. The United Kingdom, supra note 7, para. 115
[FN10] Cf. Osman v. The United Kingdom, supra note 7, para. 115
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7. In line and consonance with the case law of the European Court, the Inter-American Court has been evolving its own jurisprudence criteria on the obligation to prevent. Ever since its first jurisprudence in the 1988 case of Velásquez Rodríguez v. Honduras, the Court mentioned – and reiterated- the concept that the State has the obligation to "reasonably" prevent human rights violations. [FN11] In more recent cases, the Court has established the components to define and clarify the content of the "obligation to prevent" in line with decisions of the European Court such as those cited.

[FN11] Cf. Case of Velásquez Rodríguez v. Honduras. Preliminary Objections. Judgment of June 26, 1987. Series C No. 1, para. 174.
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8. In the case of the Pueblo Bello Massacre v. Colombia, the Court established clear criteria using concepts that were reiterated subsequently in the cases of the Sawhoyamaxa Indigenous Community v. Paraguay [FN12] and Valle Jaramillo et al. v. Colombia. [FN13] Thus, in the Pueblo Bello case, the Court established that:

[…] the Court acknowledges that a State cannot be responsible for all the human rights violations committed between individuals within its jurisdiction. Indeed, the nature erga omnes of the treaty-based guarantee obligations of the States does not imply their unlimited responsibility for all acts or deeds of individuals, because its obligations to adopt prevention and protection measures for individuals in their relationships with each other are conditioned by the awareness of a situation of real and imminent danger for a specific individual or group of individuals and to the reasonable possibilities of preventing or avoiding that danger. In other words, even though an act, omission or deed of an individual has the legal consequence of violating the specific human rights of another individual, this is not automatically attributable to the State, because the specific circumstances of the case and the execution of these guarantee obligations must be considered. [FN14]

[FN12] Cf. Case of Sawhoyamaxa Indigenous Community v. Paraguay. Merits, Reparations and Costs. Judgment of March 29, 2006. Series C No. 146, para. 155.
[FN13] Cf. Case of Valle Jaramillo et al. v. Colombia. Merits, Reparations and Costs. Judgment of November 27, 2008. Series C No. 192, para. 78.
[FN14] Cf. Case of the Pueblo Bello Massacre v. Colombia. Merits, Reparations and Costs. Judgment of January 31, 2006. Series C No. 140, para. 123.
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9. Consequently, the Court has established that the State does not have "unlimited responsibility for all acts or deeds of individuals," [FN15] and that the obligation to prevent has – in general and with the exception of special situations in which the State occupies a special position of guarantor – three components that must all be present: (1) the "awareness of a situation of real and imminent danger"; (2) "a specific individual or group of individuals," and (3) "reasonable possibilities of preventing or avoiding that danger." [FN16] These concepts were referred to with regard to the standard of "real and imminent danger" in the cases of Ríos et al. v. Venezuela [FN17] and Perozo et al. v. Venezuela. [FN18]

[FN15] Cf. Case of the Pueblo Bello Massacre v. Colombia, supra note 14, para. 123.
[FN16] Cf. Case of the Pueblo Bello Massacre v. Colombia, supra note 14, para. 123.
[FN17] Cf. Case of Ríos et al. v. Venezuela. Preliminary Objections, Merits, Reparations and Costs. Judgment of January 28, 2009. Series C No. 194, para. 110.
[FN18] Cf. Case of Perozo et al. v. Venezuela. Preliminary Objections, Merits, Reparations and Costs. Judgment of January 28, 2009. Series C No. 195, para. 121.

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10. When deciding the instant case, the Court recalled what it had already determined in the Velásquez Rodríguez case concerning the obligation to prevent "reasonably," (para. 236) and reiterated the three criteria that comprise the obligation to prevent established in the jurisprudence of this Court and of the European Court, recapitulated in the preceding paragraph

11. Thus, in this case, the Court concluded that the absence of a general policy that should have been initiated in 1998 is a failure of the State to comply with its obligation to prevent (para. 282). This "general policy" can be interpreted using the criteria established by the European Court in the case of Osman v. Turkey, to the effect that a public security policy designed to prevent, prosecute and punish offenses, such as the crimes against women that it was known were being committed in Ciudad Juárez, should have been implemented at least since 1998, which is when the National Human Rights Commission (a federal entity) warned of the pattern of violence against women in that city.

12. However, at the same time, the Court determined that "it has not been established that [the State] knew of the real and imminent danger for the victims in this case" (para. 282) prior to their kidnapping and disappearance. Nevertheless, the Court adopted a different attitude towards what the Judgment calls the "second stage"; namely, after the State had become aware of the "real and imminent danger" to a "specific group of individuals," when the three identified victims disappeared; thus, revealing the specific and evident danger that they would be abused and deprived of life, despite which the State "did not prove that it had adopted reasonable measures, according to with the circumstances surrounding these cases, to find the victims alive" (para. 284).

13. When reiterating its jurisprudence concerning the "obligation to prevent," the Court has emphasized the fundamental characteristics and components of this obligation to guarantee, as well as the characteristics and levels of the State's international responsibility. This results in an obligation to design and implement what this judgment calls "a general policy" of public security

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with its respective prevention and criminal prosecution mechanisms, taking into account the difficulties of doing this in any context and, even more so, in contexts of extensive and generalized criminality.

14. However, at the same time, the Court establishes the specific components of the obligation to prevent in determined cases in a way that avoids detracting from the criteria for determining the State's international responsibility, possibly by failing to differentiate it from ordinary crime. This avoids weakening and blurring fundamental concepts such as "violation of human rights" or "international responsibility of the States," or that such concepts are confused with facts that are, evidently, very serious but juridically different and distinguishable, such as the criminal activity of individuals. Thus, the components of the obligation to prevent insisted upon in this Judgment, help to ensure that the criminal acts of an individual will not be mistaken with the international obligations of the State in the future.

15. The States are obliged to establish general policies for public order that protect the population from criminal violence. This obligation has progressive and decided priority given the growth in the crime rate in most countries of the region. But, as stated clearly in this Judgment, this does not imply that the State has an "unlimited responsibility for any act or deed of private individuals" (para. 280), because the measures of prevention regarding which the State can be declared internationally responsible have the characteristics and components that have been developed in this Court's jurisprudence and that are repeated in this Judgment.

Diego García-Sayán
Judge

Pablo Saavedra Alessandri
Secretary

CONCURRING OPINION OF JUDGE CECILIA MEDINA QUIROGA IN RELATION TO THE JUDGMENT OF THE INTER-AMERICAN COURT OF HUMAN RIGHTS IN THE CASE OF GONZÁLEZ ET AL. ("COTTON FIELD") V. MEXICO OF NOVEMBER 16, 2009

1. Although I agree with the decision of the Inter-American Court of Human Rights (hereinafter "the Court," or "the Tribunal") in this case that there has been a violation of Article 5(2) of the American Convention on Human Rights (hereinafter the "American Convention" or "Convention"), I disagree with the fact that the Court has not classified the acts perpetrated against the victims as torture.

2. From a practical and juridical perspective, whether or not a conduct is classified as torture does not make much difference. Both torture and cruel, inhuman or degrading treatment are violations of a human right and all these acts are regulated in almost the same way. Despite this, in other cases, the Court has not hesitated to classify a conduct as torture, often without mentioning the reasons why, and it can be observed that the principal factor is the severity of the act and how it affects the victim. In general, it is the conduct that determines the distinction between torture and other types of cruel, inhuman or degrading treatment. An act is classified as

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torture because a greater stigma is assigned to torture than to other acts that are also incompatible with Article 5(2) of the Convention.

3. The Tribunal decided to explain the requirements for declaring that torture has been committed in Bueno Alves v. Argentina, understanding that an act constitutes torture when the ill-treatment: (a) is intentional; (b) causes severe physical or mental suffering, and (c) is committed with a specific goal or purpose. [FN1] If we examine these three elements, we can see that the first and third may be found in other types of treatment that are incompatible with Article 5(2) of the Convention. The intention refers to the fact that the individual is aware that he is executing an act that will cause suffering or a feeling of humiliation, and the purpose refers to the reasons why he executes it: such as, domination, discrimination, sadism, or to achieve an act or omission by the victim. Both elements may also exist in cruel, inhuman or degrading types of treatment. Consequently, what really distinguishes torture from other types of treatment, in the terms stated by the Court in the case of Bueno Alves, is the severity of the physical or mental suffering.

[FN1] Cf. Case of Bueno Alves v. Argentina. Merits, Reparations and Costs. Judgment of May 11, 2007. Series C No.164, para. 79, and Bayarri v. Argentina. Preliminary Objection, Merits, Reparations and Costs. Judgment of October 30, 2008. Series C No. 187, para. 81.

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4. The European Court of Human Rights (hereinafter “European Court”) adopted precisely that position. In this regard, in Ireland v. the United Kingdom, it decided that torture referred to “inhuman treatment causing very serious and cruel suffering.” [FN2]

[FN2] Cf. European Court of Human Rights, Ireland v. the United Kingdom (Application no. 5310/71), Judgment Strasbourg, 18 January 1978, para. 167.

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5. General Comment 20 to Article 7 of the International Covenant on Civil and Political Rights (hereinafter “the Covenant”), of the Human Rights Committee, [FN3] states that the distinctions between the different forms of treatment referred to in the Covenant “depend on the nature, purpose and severity of the treatment applied.” [FN4] The Committee did not make distinctions between the different types of conduct when it stated in the above-mentioned Comment that:

The aim of the provisions of Article 7 of the International Covenant on Civil and Political Rights is to protect both the dignity and the physical and mental integrity of the individual. It is the duty of the State party to afford everyone protection through legislative and other measures as may be necessary against the acts prohibited by Article 7, whether inflicted by people acting in their official capacity, outside their official capacity or in a private capacity. [FN5]

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[FN3] Cf. General Comment No. 20: Replaces general comment concerning prohibition of torture and cruel treatment or punishment (Art. 7): 10/03/92 CCPR General Comment No. 20.
[FN4] Cf. General Comment No. 20, supra note 3, para. 4.
[FN5] Cf. General Comment No. 20, supra note 3, para. 2. There is also a reference to acts of torture committed by private individuals in para. 13 of this General Comment, which reads:
States parties should indicate when presenting their reports the provisions of their criminal law which penalize torture and cruel, inhuman and degrading treatment or punishment, specifying the penalties applicable to such acts, whether committed by public officials or other persons acting on behalf of the State, or by private persons. Those who violate Article 7, whether by encouraging, ordering, tolerating or perpetrating prohibited acts, must be held responsible.
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6. Nor did the European Court make any distinctions in the recent case of Opuz V. Turkey [FN6], when it stated:

As regards the question whether the State could be held responsible, under Article 3, for the ill-treatment inflicted on persons by non-state actors, the Court recalls that the obligation on the High Contracting Parties under Article 1 of the Convention to secure to everyone within their jurisdiction the rights and freedoms defined in the Convention, taken together with Article 3, requires States to take measures designed to ensure that individuals within their jurisdiction are not subjected to torture or inhuman or degrading treatment or punishment, including such ill-treatment administered by private individuals (see, mutatis mutandis, H.L.R. v. France, 29 April 1997, § 40, Reports 1997-III). Children and other vulnerable individuals, in particular, are entitled to State protection, in the form of effective deterrence, against such serious breaches of personal integrity (see A. v. the United Kingdom, 23 September 1998, § 22, Reports 1998-VI). [FN7]

[FN6] Cf. European Court of Human Rights, Opuz v. Turkey, (Application no. 33401/02), Judgment Strasbourg, 9 June 2009, para. 159. See also, Z and others v. the United Kingdom (Application no. 29392/95), Judgment Strasbourg 10 May 2001, para. 73.
[FN7] Cf. European Court of Human Rights, Opuz v. Turkey, supra note 6, para. 159.
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7. As can be seen, none of these decisions or interpretations alludes to the requirement of the need for the active participation, acquiescence, tolerance or inaction of a State agent. This is a requirement added by the Inter-American Convention to Prevent and Punish Torture (hereinafter "the CIPST") and by the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (hereinafter "the Convention against Torture"). Both Conventions are subsequent to the American Convention, since they entered into force in 1987.

8. On reading paragraphs 218, 219, 220 and 230 of this Judgment, it can be observed that the three victims suffered serious physical injuries and very probably some type of sexual abuse before they died. The State's description of the bodies, even though initially inept, illustrates the scale of the treatment inflicted on them; therefore the facts should be considered acts of torture.

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9. Accordingly, there appears to be no justification for not classifying the treatment applied to the three victims in this case as torture, apart from the fact that the Court considered that a State could not be found responsible for an act of torture if there was no evidence that it had been perpetrated by State agents or that it had been carried out when a public servant or employee, who could have prevented the act, failed to do so (Article 3(a) [FN8] of the CIPST) or, in the terms of Article 1 [FN9] of the Convention against Torture, the act had been carried out with the acquiescence of a State agent.

[FN8] Article 3 of the Inter-American Convention to Prevent and Punish Torture establishes:
The following shall be held guilty of the crime of torture:
1. A public servant or employee who acting in that capacity orders, instigates or induces the use of torture, or who directly commits it or who, being able to prevent it, fails to do so.
2. A person who at the instigation of a public servant or employee mentioned in sub-paragraph (a) orders, instigates or induces the use of torture, directly commits it or is an accomplice thereto.
[FN9] Article 1(1) of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment establishes:
For the purposes of this Convention, the term "torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.

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10. Regarding the formulation of the Convention against Torture, it is enough to say that the Committee against Torture, created by this Convention, has stated that:

[W]here State authorities […] know or have reasonable grounds to believe that acts of torture or ill-treatment are being committed by non-State officials or private actors and they fail to exercise due diligence to prevent, investigate, prosecute and punish such non-State officials or private actors […] the State bears responsibility […] for consenting to or acquiescing in such impermissible acts. Since the failure of the State to exercise due diligence to intervene to stop, sanction and provide remedies to victims of torture facilitates and enables non-State actors to commit acts impermissible under the Convention with impunity, the State's indifference or inaction provides a form of encouragement and/or de facto permission The Committee has applied this principle to States parties failure to prevent and protect victims from gender-based violence, such as rape, domestic violence, female genital mutilation and trafficking. [FN10]

[FN10] Committee against Torture, General Comment No. 2 on implementation of Article 2 by States Parties, U.N. doc. CAT/C/GC/2, of 24 January 2008, para. 18.

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11. Also, referring to Article 1 of the Convention against Torture, which embodies similar obligations to those in the above-mentioned Article 3 of the CIPST, the Special Rapporteur on torture indicated that it:

has frequently been used to exclude violence against women outside direct State control from the scope of protection of CAT. However, the Special Rapporteur wishes to recall that the language used in Article 1 of the Convention concerning consent and acquiescence by a public official clearly extends State obligations into the private sphere and should be interpreted to include State failure to protect persons within its jurisdiction from torture and ill-treatment committed by private individuals. [FN11]

[FN11] 2008 Report of the Special Rapporteur on torture and other cruel, inhuman and degrading treatment or punishment, Manfred Nowak, doc. A/HRC/7/3 of 15 January 2008, para. 31.

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12. Regarding the CIPST, three points should be highlighted. The first is that the American Convention, in force since July 1978, does not contain a definition of this conduct and the Court has had to construct a definition based on its powers as an organ authorized to provide an authentic interpretation of the provisions of the Convention, so that the Court's concept of torture, whether or not defined in its judgments but present in the mind of the judges, should not inevitably be the same as the concept set out in said Conventions and should not always be applied. The second is that not all the States Parties to the American Convention are parties to the CIPST, so that, to date, the Court may be faced with hearing a case of torture without being able to apply the latter Convention directly. Indeed, the Inter-American Convention against Torture is not applied in this Judgment, and it is not used to shed light on the interpretation of the provisions of the American Convention. The third recalls that the Court itself determined that, after considering the concept of torture developed in the European human rights system and the definition established in the CIPST, it had reached the conclusion that "[a]n international juridical system of absolute prohibition of all forms of torture, both physical and psychological, [FN12] has been established." [FN13]

[FN12] Cf. Case of Velásquez Rodríguez v. Honduras. Preliminary Objections. Judgment of June 26, 1987. Series C No. 1, para.103. Similarly, Case of Cantoral Benavides v. Peru. Merits. Judgment of August 18, 2000. Series C No. 69, para. 102; Case of Maritza Urrutia v. Guatemala. Merits, Reparations and Costs. Judgment of November 27, 2003. Series C No. 103, para. 92, and Case of the Gómez Paquiyauri Brothers v. Peru. Merits, Reparations and Costs. Judgment of July 8, 2004. Series C No. 110, para. 112.

[FN13] Case of the Gómez-Paquiyauri Brothers v. Peru. Merits, Reparations and Costs. Judgment of July 8, 2004. Series C No. 110, para. 112. See also Case of Fermín Ramírez v. Guatemala. Merits, Reparations and Costs. Judgment of 20 June 20, 2005. Series C No. 126, para. 117, and Case of the Miguel Castro Castro Prison v. Peru. Merits, Reparations and Costs. Judgment of November 25, 2006. Series C No. 160, para. 271.

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13. Since an international corpus juris has been established, it is admissible to see how it has been applied in order to give the greatest protection to the human rights of the individual. Perhaps the best summary of the position that could be adopted in this case, which involves a serious violation of the integrity of two girls and a young woman – who belonged to a sector that society has placed in a vulnerable situation, which, in turn, was permitted by the State – can be found in a judgment of the International Criminal Tribunal for the Former Yugoslavia (hereinafter "Tribunal for the Former Yugoslavia").

14. In the Prosecutor v. Dragoljub Kunarac, Radomir Kovac and Zoran Vukovic case, [FN14] the Tribunal for the Former Yugoslavia refers, in paragraph 479, to the jurisprudence of the European Court [FN15] and, in paragraph 482, to its own case law [FN16] in order to state that the definition of the Convention against Torture cannot be regarded as a provision of customary law. The definition contained in that Convention can only be used to the extent that other international instruments or national laws do not give the individual better or more extensive protection. Moreover, this reiterates one of the basic provisions of the application of the human rights instruments found in Article 29(b) [FN17] of the American Convention and in Article 5(2) [FN18] of the International Convention on Civil and Political Rights.

[FN14] Cf. International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, Trial chamber, Prosecutor v. Dragoljub Kunarac, Radomir Kovac and Zoran Vukovic, Judgment of 22 February 2001.

[FN15] Costello-Roberts v. UK, 25 March 1993, Series A, No 247-C, paras. 27-28; HLR v. France, 29 April 1997, Reports 1997-III, p. 758, para. 40, and A v. UK, 23 September 1998, Reports of Judgments and Decisions 1998-VI, p. 2692, para. 22.

[FN16] Cf. International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, Trial chamber, Prosecutor v Furundžija, Case IT-95-17/1-T, Judgment, 10 December 1998, para. 160.

[FN17] Article 29(b) of the Convention establishes:

No provision of this Convention shall be interpreted as:

b) restricting the enjoyment or exercise of any right or freedom recognized by virtue of the laws of any State Party or by virtue of another convention to which one of the said states is a party;

[FN18] Article 5(2) of the Convention establishes:

There shall be no restriction upon or derogation from any of the fundamental human rights recognized or existing in any State Party to the present Covenant pursuant to law, conventions, regulations or custom on the pretext that the present Covenant does not recognize such rights or that it recognizes them to a lesser extent.

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15. After examining all the laws and rules that refer to torture, the Tribunal for the Former Yugoslavia reached, on the one hand, the conclusion, which I share, that there are three elements

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in torture that are uncontentious and that constitute, consequently, jus cogens: (i) infliction, by act or omission, of severe pain or suffering, whether physical or mental; (ii) the intentional nature of the act, and (iii) the motive or purpose of the act to reach a certain goal. [FN19] On the other hand, there are three elements that remain in contention and, thus, do not form part of jus cogens: (i) the list of purposes for which the act is committed; (ii) the requirement that the act be inflicted in connection with an armed conflict, and (iii) the requirement that the act be inflicted by or at the instigation of or with the consent and acquiescence of a state official. [FN20]

[FN19] Cf. Prosecutor v. Dragoljub Kunarac, Radomir Kovac and Zoran Vukovic, supra note 14, para. 483.
[FN20] Cf. Prosecutor v. Dragoljub Kunarac, Radomir Kovac and Zoran Vukovic, supra note 14, para. 484.

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16. This reasoning leads me to maintain that the Court is not obliged to be guided by or apply either the definition of torture in the CIPST or that of the Convention against Torture; rather it should allow the concept of jus cogens to prevail, because this establishes the best protection for the victims of torture. I also recall that Article 16 of the CIPST establishes that this Convention “shall not limit the provisions of the American Convention on Human Rights, other Conventions on the subject, or the Statutes of the Inter-American Commission on Human Rights, with respect to the crime of torture,” so that interpreting torture in a manner that differs from that Convention does not constitute non-compliance with it but, to the contrary, its true application.

17. If the Court has independence to define torture and, thus, does not need to incorporate the participation, by act or omission, of a public official as an element of the concept of torture (and does not need to interpret the concept of acquiescence in its narrowest sense, because in this case – basing myself on the facts – I maintain that using the concept of acquiescence of the Committee against Torture, the State acquiesced), the only problem that must be examined is whether the State can be attributed with the fact that it has not complied with its obligation to safeguard the personal integrity of the victims from the possibility of torture. I need not repeat what the Court has stated in numerous judgments and reiterates in this: that the obligation to guarantee requires the duty to prevent.

18. The Judgment in this case establishes two moments at which the State failed to comply fully with this obligation. The first was before the disappearance of the victims and does not refer to the obligation to prevent the three victims from being abducted; that would be disproportionate. What could be claimed is that, as soon as the State was officially (not to mention unofficially) aware, in other words, at least as of the moment at which the National Human Rights Commission officially alerted it to the existence of a pattern of violence against women in Ciudad Juárez, there was an absence of policies designed to try and revert the situation.

19. The second moment, which is the one that interests me for the purposes of this opinion, is the lapse between the time the three victims disappeared and the State’s response to their disappearance; which was, according to the Judgment, extremely belated and even today

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insufficient. In paragraph 283 of the Judgment, the Court recognizes that the State "was aware that there was a real and imminent risk that the victims would be sexually abused, subjected to ill-treatment and killed," and that, consequently, it "finds that, in this context, an obligation of strict due diligence arises in regard to reports of missing women, with respect to search operations during the first hours and days."

20. If the Court had concluded that, in this case, the State was responsible for the torture inflicted on the victims, it would have followed the trend of the other international supervisory bodies, mentioned above, which have been establishing a tendency to attribute State responsibility for acts of torture committed by non-State agents. I consider that this would have been an important development and provided clarification on an issue regarding which the Court should certainly continue to occupy itself.

Cecilia Medina Quiroga
Judge

Pablo Saavedra Alessandri
Secretary