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Title/Style of Cause:	Plan de Sanchez Massacre v. Guatemala
Doc. Type:	Judgment (Reparations)
Decided by:	President: Sergio Garcia Ramirez; Vice President: Alirio Abreu Burelli; Judges: Oliver Jackman; Antonio A. Cancado Trindade; Cecilia Medina Quiroga; Manuel E. Ventura Robles; Diego Garcia-Sayan; Alejandro Sanchez Garrido
Dated:	19 November 2004
Citation:	Plan de Sanchez Massacre v. Guatemala, Judgment (IACtHR, 19 Nov. 2004)
Represented by:	APPLICANT: the Center for Legal Action on Human Rights
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In the Case of the Plan de Sánchez Massacre,

the Inter-American Court of Human Rights (hereinafter “the Court” or “the Inter-American Court”), in accordance with Articles 29, 56, 57 and 58 of the Rules of Procedure of the Court (hereinafter “the Rules of Procedure”), and Article 63(1) of the American Convention on Human Rights (hereinafter “the American Convention” or “the Convention”), delivers this judgment.

## I. INTRODUCTION OF THE CASE

1. On July 31, 2002, the Inter-American Commission on Human Rights (hereinafter “the Commission” or “the Inter-American Commission”) filed an application against the State of Guatemala (hereinafter “the State” or “Guatemala”), before the Inter-American Court, originating from petition No. 11,763, received by the Secretariat of the Commission on October 25, 1996.

2. The Commission submitted the application, based on Article 61 of the American Convention, for the Court to “declare that the State was internationally responsible [...] for violations to the rights to humane treatment, judicial protection, a fair trial, [...] equal protection, freedom of conscience and religion, and [...] property, in relation to the obligation to respect rights, which are embodied in Articles 5, 8, 25, 24, 12, 21 and 1[(1)] of the American Convention.” In the application, the Commission alleged “denial of justice and other acts of intimidation and discrimination affecting the rights to humane treatment, freedom of conscience and religion, and property of the survivors, and the next of kin of the victims of the massacre of 268 individuals [...], mostly members of the Maya indigenous people of the village of Plan de Sánchez, Municipality of Rabinal, Department of Baja Verapaz, perpetrated by members of the Guatemalan Army and civilian collaborators, under the guidance of the Army, on Sunday, July 18, 1982.

3. The Commission also requested the Court to order specific pecuniary and non-pecuniary reparations and payment of the costs and expenses arising from processing the case at the national level, and at the international level before the organs of the inter-American system for the protection of human rights.

## II. COMPETENCE

4. Guatemala has been a State Party to the American Convention since May 25, 1978, and accepted the contentious jurisdiction of the Inter-American Court on March 9, 1987. Consequently, the Court is competent to hear this case, in the terms of Articles 62 and 63(1) of the Convention.

## III. PROCEEDING BEFORE THE COMMISSION

5. On October 25, 1996, the Centro para la Acción Legal en Derechos Humanos [Center for Legal Action on Human Rights] (hereinafter “CALDH”, “the victims’ representatives” or “the representatives”) submitted a petition to the Inter-American Commission. On July 1, 1997, the Commission opened case No. 11,763 and forwarded the pertinent parts of the petition to the State.

6. On March 11, 1999, during its one hundred and second regular session, the Inter-American Commission adopted Report No. 31/99 on the admissibility of the case.

7. On February 28, 2002, during its one hundred and fourteenth regular session, having examined the positions of the parties and considering that the friendly settlement stage had terminated, the Commission, in accordance with the provisions of Article 50 of the Convention, adopted Report on Merits No. 25/02 in which it made a series of recommendations to the State.

## IV. PROCEEDING BEFORE THE COURT

8. On July 31, 2002, the Inter-American Commission filed the application before the Court. On August 22, 2002, after the President of the Court (hereinafter “the President”) had made a preliminary review of the application, the Secretariat of the Court (hereinafter “the Secretariat”) notified it to the State, informing the latter of the time for answering it and appointing its representatives for the proceedings. The same day, on the instructions of the President, the Secretariat informed the State of its right to appoint a judge ad hoc to take part in the consideration of the case. Also, on August 22, 2002, in accordance with Article 35(1)(e) of the Rules of Procedure, the application was notified to CALDH, advising the Center that it had 30 days to present its brief with requests, arguments and evidence (hereinafter “requests and arguments brief”).

9. On September 27, 2002, the victims’ representatives remitted the requests and arguments brief.

10. On November 1, 2002, the State submitted its brief filing preliminary objections, [FN1] answering the application, and commenting on the requests and arguments brief.

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[FN1] The preliminary objections filed by the State were: “Failure to exhaust domestic remedies; failure to decide on the State’s position concerning the change in and modification of the contents of the report of the Inter-American Commission on Human Rights that gave rise to the filing of the application before the Inter-American Court of Human Rights; and generally erroneous interpretation of the acknowledgment made by the State of Guatemala”.  
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11. On February 19, 2004, the President issued an order in which he requested the Inter-American Commission, pursuant to Article 47(3) of the Rules of Procedure, to arrange for Benjamín Manuel Jerónimo and Eulalio Grave Ramírez to provide their testimony by statements made before notary public (affidavits) and for Luis Rodolfo Ramírez García and José Fernando Moscoso Möller to provide their expert reports by statements made before notary public (affidavits). The President granted a non-extendible period of 20 days from the transmittal of these affidavits for the representatives and the State to forward their comments on the statements and expert reports. The President also convened the Inter-American Commission, the representatives, and the State to a public hearing to be held at the seat of the Court as of April 23, 2004, to hear their arguments on preliminary objections and merits, reparations and costs, and to hear the testimony of Juan Manuel Jerónimo, Narcisa Corazón Jerónimo and Buenaventura Manuel Jerónimo, and the expert reports of Augusto Willemsen-Díaz and Nieves Gómez Dupuis, all proposed by the Commission. In this order, the President also informed the parties that they had until May 24, 2004, to submit their final written arguments.

12. On March 11, 2004, the Commission forwarded the testimonies of Benjamín Manuel Jerónimo and Eulalio Grave Ramírez and the expert reports of Luis Rodolfo Ramírez García and José Fernando Moscoso Möller, all of them provided before notary public (affidavits). On March 12 and 15, 2004, the Secretariat forwarded to the representatives and to the State, respectively, the above statements remitted by the Commission, so that they could present any comments they deemed pertinent. No comments were submitted.

13. On April 21, 2004, the Instituto Comparado de Ciencias Penales en Guatemala [Criminal Sciences Comparative Institute of Guatemala] (ICCPG), the Centro de Estudios sobre Justicia y Participación [Justice and Participation Study Center] (CEJIP) and the Instituto de Estudios Comparados en Ciencias Penales y Sociales [Institute for Criminal Sciences Comparative Studies] (INECIP) submitted an amici curiae brief.

14. On April 23 and 24, 2004, the Court held a public hearing, in two parts. There appeared before it:

for the Inter-American Commission on Human Rights:

Susana Villarán, Delegate  
María Claudia Pulido, adviser  
Isabel Madariaga, adviser

for the victims' representatives:

Fernando Arturo López Antillón, representative  
Lucy Turner, representative  
Juan Pablo Pons, representative

for the State of Guatemala:

Herbert Estuardo Meneses Coronado, Agent  
Luis Ernesto Cáceres Rodríguez, Deputy Agent  
Mayra Alarcón Alba, Executive Director of the Presidential Commission for coordinating  
Executive Policy on Human Rights (COPREDEH);

witnesses proposed by the Inter-American Commission on Human Rights:

Juan Manuel Jerónimo  
Buenaventura Manuel Jerónimo, and  
Narcisca Corazón Jerónimo

expert witnesses proposed by the Inter-American Commission on Human Rights:

Augusto Willemsen-Díaz, and  
Nieves Gómez Dupuis.

15. During the first part of the public hearing, the State declared orally and in writing that it withdrew the preliminary objections it had filed and acknowledged its international responsibility in this case. The Inter-American Commission and the representatives, respectively, stated during the public hearing, and in writing, that they accepted the State's acknowledgement of responsibility. The same day, Guatemala presented a second brief in which it referred to the position of the Commission and the representatives regarding its acknowledgement of international responsibility.

16. On April 23, 2004, following the conclusion of the first part of the public hearing and the presentation of the abovementioned briefs, the Court issued an order in which it decided to accept the withdrawal of all the preliminary objections filed by the State; to admit the State's acknowledgement of international responsibility; to continue holding the public hearing convened in the order of the President of February 19, 2004, (*supra* para. 11), and to restrict its purpose to reparations and costs. The statements of the witnesses and expert witnesses who had been convened, and the arguments of the Inter-American Commission, the representatives, and the State were heard during this public hearing.

17. During the same public hearing before the Court, the expert witness, Nieves Gómez Dupuis, delivered a written report entitled "Informe sobre el daño a la salud mental derivado de la Masacre de Plan de Sánchez para la Corte Interamericana de Derechos Humanos" [Report to the Inter-American Court of Human Right on the damage to mental health resulting from the Plan de Sánchez Massacre].

18. On April 29, 2004, the Inter-American Court delivered its judgment on merits, in which it decided, unanimously:

1. To reaffirm its order of April 23, 2004, in which it accepted the withdrawal of the preliminary objections filed by the State and admitted the State's acknowledgement of international responsibility.

2. To declare that the dispute concerning the facts that gave rise to the instant case had ceased.

3. To declare, in accordance with the terms of the State's acknowledgement of international responsibility, that the State had violated the rights embodied in Articles 5(1) and 5(2) (Right to Humane Treatment); 8(1) (Right to a Fair Trial); 11 (Right to Privacy); 12(2) and 12(3) (Freedom of Conscience and Religion); 13(2)(a) and 13(5) (Freedom of Thought and Expression), 16(1) (Freedom of Association), 21(1) and 21(2) (Right to Property), 24 (Right to Equal Protection) and 25 (Right to Judicial Protection) of the American Convention on Human Rights; and that it had failed to comply with the obligation to respect the right embodied in Article 1(1) thereof, in the terms of paragraphs 47 and 48 of th[e] judgment.

4. To continue hearing the stage of reparations and costs of the instant case.

19. On May 23, 2004, the victims' representatives submitted their final written arguments.

20. On May 24, 2004, the State, and the Inter-American Commission submitted final written arguments.

21. On October 15 and 19, 2004, on the instructions of the President and in accordance with Article 45(2) of the Rules of Procedure, the Secretariat requested the Commission and the State, and the representatives, respectively, to present, by November 1, 2004, at the latest, a certification issued by the competent authority on the minimum wage for an agricultural worker in force in Guatemala at the time of the facts and up until today; the list of prices of goods on the Rabinal market, and the table of the daily exchange rate of Guatemalan quetzals to United States dollars of the Banco de Guatemala from July 1982 to date. The Secretariat also asked the Commission and the representatives to submit the birth certificates and any other appropriate information on some of the survivors of the Plan de Sánchez Massacre and a list of the women rape victims who had survived the massacre. In addition, the Secretariat requested the representatives to submit the birth certificates or any other appropriate information on Juan Cajbón Corazón, Enrique Cajbón Corazón, Guadalupe Cajbón Jerónimo, Luis Cajbón Oxlaj, Prudencia Cajbón Jerónimo, Ezequiel Grave Oxlaj and Andrés Grave Valey, identified as "survivors of the massacre, who did not lose next of kin," the birth certificate or any other appropriate information on Faustina Cojom, [FN2] a beneficiary of the provisional measures ordered by the Court on July 30, 2004, and also a list of the family groups who were members of the community of Plan de Sánchez at the time of the facts and of the survivors of those groups, for whom payment of compensation for indirect damage has been requested.

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[FN2] According to identity card No. Ñ-15, Registration No. 30,181 provided by the representatives, the correct last name of Faustina is “Cojom” and not “Tojom” as initially indicated. Faustina is a victim in this case and a beneficiary of the provisional measures.

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22. On November 5, 2004, the State, the Commission and the representatives submitted the helpful documentary evidence requested, in accordance with the extension granted.

## V. PROVISIONAL MEASURES

23. On July 21, 2004, the representatives submitted to the Inter-American Court, based on Article 63(2) of the American Convention and Article 25 of the Rules of Procedure, a request for the adoption of provisional measures to protect the lives, personal liberty and safety of Salvador Jerónimo Sánchez, Prudencia Cajbón, Faustina Cojom, Juan Manuel Jerónimo and Buenaventura Manuel Jerónimo, “who are involved in the Plan [d]e Sánchez [Massacre] case”.

24. On July 30, 2004, the President ordered the adoption of urgent measures, calling upon the State to adopt forthwith all necessary measures to safeguard and protect the lives, personal liberty and safety of Salvador Jerónimo Sánchez, Prudencia Cajbón, Faustina Cojom, Juan Manuel Jerónimo and Buenaventura Jerónimo, including the protection of the perimeter of their places of residence. He also requested the State to allow the beneficiaries of the measures or their representatives to take part in the planning and implementation of the measures and to keep them informed about progress in implementation; also to investigate the facts that led to their adoption, in order to identify those responsible and impose the corresponding penalties.

25. On September 8, 2004, the Court decided to ratify all the provisions of the order issued by the President on July 30, 2004, and called upon the State to maintain all necessary measures to safeguard and protect the lives, and personal liberty and safety of Salvador Jerónimo Sánchez, Prudencia Cajbon, Faustina Cojom, Juan Manuel Jerónimo and Buenaventura Manuel Jerónimo.

## VI. EVIDENCE

26. Before examining the evidence provided, in light of the provisions of Articles 44 and 45 of the Rules of Procedure, the Court will make some observations applicable to this specific case, most of which have been developed in its case law.

27. The adversary principle, which respects the right of the parties to defend themselves, applies to matters pertaining to evidence. This principle is embodied in Article 44 of the Rules of Procedure, as regards the time at which the evidence should be submitted to ensure equality between the parties. [FN3]

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[FN3] Cf. Case of Tibi. Judgment of September 7, 2004. Series C No. 114, para. 66; Case of the “Juvenile Reeducation Institute”. Judgment of September 2, 2004. Series C No. 112, para. 63, and Case of Ricardo Canese. Judgment of August 31, 2004. Series C No. 111, para. 47.

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28. The proceedings before the Court are not subject to the same formalities as domestic proceedings. When incorporating certain elements into the body of evidence, particular attention must be paid to the circumstances of the specific case and to the limits imposed by respect for legal certainty and the procedural equality of the parties. Likewise, the Court has taken account of international case law; by considering that international courts have the authority to assess and evaluate the evidence according to the rules of sound criticism, it has always avoided a rigid determination of the quantum of evidence needed to support a judgment. This criterion is especially true for international human rights courts, which have greater latitude to evaluate the evidence provided to it, in accordance with the principles of logic and on the basis of experience. [FN4]

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[FN4] Cf. Case of Tibi, *supra* note 3, para. 67; Case of the “Juvenile Reeducation Institute”, *supra* note 3, para. 64, and Case of Ricardo Canese, *supra* note 3, para. 48.

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29. Based on the foregoing, the Court will now proceed to examine and weigh all the elements of the body of evidence in this case.

A) DOCUMENTARY EVIDENCE

30. The Inter-American Commission provided documentary evidence when presenting its application brief (*supra* para. 8). [FN5]

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[FN5] Cf. file of appendixes to the application, appendixes 1 to 19, folios 73 to 972.

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31. The representatives presented several attachment as documentary evidence, together with the requests and arguments brief (*supra* para. 9). [FN6]

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[FN6] Cf. file of appendixes to the requests and arguments brief, tome I, appendixes 1 to 14, folios 1 to 222, and tome II, appendixes 15 to 28, folios 223 to 468.

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32. The Commission forwarded the statements (affidavits) made before notary public by the witnesses, Benjamín Manuel Jerónimo and Eulalio Grave Ramírez, and by the expert witnesses, Luis Rodolfo Ramírez García and José Fernando Moscoso Möller (*supra* para. 12), [FN7] as required by the President in the order of February 19, 2004, (*supra* para. 11). The Court will now summarize the relevant parts of these statements.

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[FN7] Cf. statements made and expert reports given before notary public (affidavits) submitted by the Commission (file on preliminary objections and merits and reparations, tome III, folios 470 to 518).

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a) Statement of Benjamín Manuel Jerónimo, victim

He was born in Plan de Sánchez and has lived there ever since. He is 50 years old. At the time of the facts, he farmed and made roof tiles. He speaks Maya-Achí.

Beginning in 1981, the Guatemalan Army began to visit the village of Plan de Sánchez regularly. It rounded up the men, youths and adults for obligatory military service. In addition, there were ten groups of Civil Self-Defense Patrols (hereinafter “the PAC”), each one comprising ten men, in the village of Plan de Sánchez, and they monitored and investigated everything that happened in the community.

On Sunday, July 18, 1982, the day of the massacre, the Army entered Plan de Sánchez at 2 p.m. At that time, the witness was hidden in the woods, 75 meters from his sister’s house. Subsequently, the soldiers approached his sister’s house, where they collected all the inhabitants of Plan de Sánchez, and other individuals they had captured on the way; they separated the children, and the girls of 15 to 20 years old. Then they began the massacre. First, they tortured the elderly, because they said the latter were guerrillas; then they threw two grenades and fired weapons. Lastly, they threw gasoline on the house and set fire to it. The young girls they had separated were tortured and raped. After executing the women, the men and the elderly, they took the children one by one, smashed them against the ground, and threw them into the flames. No one could escape because the Army had surrounded the entrance and exit of Plan de Sánchez, as well as the adjacent roads.

The massacre was committed by members of the Army, the PAC, and the Judicial Police. That day, approximately 284 individuals died; they were inhabitants of Plan de Sánchez and neighboring communities.

The witness’s next of kin who died were: his mother, his wife, his niece and his three sisters. One of these sisters was raped.

On July 19, 1982, he braced himself to leave the place where he was hiding to go and examine the havoc that had been wrought. Together with his brothers, Juan, Buenaventura and Esteban, and with Eulalio Grave Ramírez, he put out the fire that was still consuming the corpses. Those that had not been carbonized shown signs of torture, as did the naked bodies of the youngest women.

Then, members of the PAC and Army agents arrived with an order from the military detachment to bury all the victims within two hours; they were warned that, otherwise, army helicopters that were circling over Plan de Sánchez would attack and massacre them. Therefore, they dug a trench and put all the bodies in it, and were unable to bury them on sacred ground, according to Mayan tradition. This was done under the supervision of the members of the PAC and the Army agents.

The soldiers robbed and looted the homes of the inhabitants of Plan de Sánchez, taking everything of value to share out among themselves. Nevertheless, the survivors took refuge in their empty homes and organized themselves to be on guard in case the Army returned. During the morning, they stayed in their homes and, at night, they fled to the woods. In this way, the witness survived in the wilds for two years. They did not return to live in Plan de Sánchez for



fear of being massacred. The members of the Judicial Police, constituted in armed squadrons, had placed them on the Army's "black list," with orders to kill them, if they were found.

During the forced displacement, life was very difficult. They felt defenseless and hopeless; they were hungry, thirsty and cold. They were ill and could not receive medical care.

In January 1984, as a result of the 1983 amnesty, they returned from the wilds; but the Army agents did not allow them to rebuild their homes or work in Plan de Sánchez, so they were forced to live in other communities. Furthermore, the witness was obliged to become a member of the PAC. All the men were forced to take part in the patrols, even the youths of 14 years old and up, and the elderly.

In November 1984, the Centro de Integración Familiar [Family Reunion Center] initiated a project to provide low-cost housing for 20 people. Accordingly, he and his brothers, Juan and Buenaventura, requested authorization from the Army agent in Rabinal to return to Plan de Sánchez and rebuild their homes. Thus, they were able to live in the village, together with other men who had survived the massacre.

Following the return to Plan de Sánchez, the Army agents in Raxjut visited the village every three, eight or fifteen days, and accused the survivors of the massacre of being guerrillas; they threatened them constantly and controlled them rigorously. The role of the PAC changed in some cases, but those who led the PAC continued to believe that the survivors of the massacre were guerrillas and planned to kill them. Around 1995 or 1996, the Army agents and the PAC disappeared; nevertheless, they continue to harass the inhabitants of Plan de Sánchez.

Because they lost everything in the massacre, not only their next of kin, but also their material possessions (and, with the passage of time, the soil became less productive), they had to wait many years before being able to harvest and sell their crops as they had once done.

When they returned to Plan de Sánchez, they felt grief, impotence, fear and anger, and they were not free to express themselves, for fear of reprisals; they could only obey. They were obliged to do forced labor.

The militarization of Plan de Sánchez prevented them from continuing their ancestral traditions. Before the massacre, they performed individual and private ceremonies, called "devotions." Several of the older men were responsible for officiating these acts, but many of them died in the massacre and their knowledge could not be transmitted to the new generations. Moreover, owing to the repression exercised by the Army and the obligation for the young men to do military service, the latter lost their faith, their devotion for the traditions and knowledge of their ancestors, and did not want to continue the traditions. After the massacre, they lost the freedom to constitute "cofradías" [brotherhoods]; they performed a few Mayan ceremonies very infrequently, because the military agents did not allow these rites, alleging that they were practicing witchcraft against their enemies or giving people bad advice.

When the amnesty was granted, there was greater freedom of expression, but they still had to ask the military agent for permission to hold religious ceremonies. The PAC organized groups and shifts to monitor these ceremonies. Following the exhumation in June 1994, the inhabitants of Plan de Sánchez had greater freedom to hold Mayan ceremonies.

Education was also changed after the Plan de Sánchez massacre, because the orphans could not receive from their parents the education that had been instilled in them by their ancestors.

Rigorous control was exercised at all times and it was impossible to comment on any issue, particularly on the Plan de Sánchez massacre. In 1996, when the peace agreements were signed, they dared to speak out about the massacre and about those who had been responsible.

They have always been discriminated against because they are indigenous people, and also because they are leaders and seek the development of their community. However, they were accused of being guerrillas and having provoked the massacre.

b) Statement of Eulalio Grave Ramírez, victim

He was born in Plan de Sánchez and still lives in the village. He is 56 years old; he is a farmer and speaks Maya-Achí.

Every ten days a group of 30 Army soldiers visited the village of Plan de Sánchez. There were also the PAC who were on watch, 24 hours a day, in the communities of Raxjut, Coxojabaj and Plan de Sánchez. In addition, there were military agents who obliged the inhabitants to become members of the PAC and who monitored the area. The soldiers accused them of being guerrillas. On Sunday, July 18, 1982, because it was market day, the witness was on his way to Rabinal to purchase provisions, when he saw several soldiers collecting people from the different villages and taking them along the road towards Plan de Sánchez. At 5 p.m., he returned to Plan de Sánchez and was able to observe how the Army had gathered all the people from the village and from other nearby villages, by force, into Rosa Manuel Jerónimo's house. They separated the girls who were 15 to 20 years old from this group, and took them to Guillerma Grave Manuel's house; they raped them; they broke their arms and legs, and then they killed them. Subsequently, they killed those in the larger group and then set fire to the house. The children were smashed against the floor, and then thrown into the flames together with their parents.

At 8 p.m., he was able to enter his own home and saw that his wife and three of his children were dead. He found one of his daughters alive; she had managed to escape, because she was buried under the bodies of her two siblings. He fled with her, and they hid in the woods that night. Subsequently, they found two of his children who had hidden in the house of one of their next of kin.

That day, approximately 280 people died. The massacre was committed by members of the Army, the PAC, the Judicial Police, and the military agents.

At 9 a.m. on Monday, July 19, 1982, he returned to Plan de Sánchez and saw that there was still smoke coming from the homes that had been destroyed. He met Juan Manuel Jerónimo, who had lost his whole family, and they joined other survivors to put out the fire that was consuming the corpses. They found some bodies that had been burned and others that were carbonized. The bodies of most of the young women, who had been separated from the group, were naked. At 11 a.m., the military agents and the members of the PAC arrived with orders from the Army to bury the remains of the victims within two hours. No one could bury their next of kin according to their Mayan rites.

Following the massacre, everything was destroyed or stolen by the Guatemalan Army. The witness was forced to hide in the wilds with his children for approximately five months, since he had lost his home and his belongings. The survivors hid in the wilds at night and, in the morning, they returned to Plan de Sánchez, taking turns to watch whether the Army was coming, so that they could flee. The time of forced displacement was a very difficult period of his life. His children became ill, owing to the climate conditions and to hunger. They did not receive medical care.

They did not return to Plan de Sánchez because the military agent did not allow this; if someone tried to return, he ran the risk of being arrested, taken to the military detachment and executed.

After he had spent two years in the wilds, an agent told him that if he joined the PAC he could live in Coxojabaj. This is how he began to patrol.

In mid-1984, the military detachment authorized a group of around 15 families, all survivors of the massacre, to return to Plan de Sánchez. The Family Reunion Center program provided them with planks so that they could begin to rebuild their homes. Despite the poverty, before the massacre the inhabitants of the village lived in harmony and collaborated with each other. Afterwards, everything changed, and the level of poverty increased.

The return to Plan de Sánchez was very hard, because it was difficult to reinstate agricultural activities. He is currently growing coffee on his land and, as of 1990, he began to sell it. The State has not returned their belongings.

They still grieve for the loss of their next of kin and this will continue for the rest of their lives. Many of them are very depressed and have wanted to stop living as a result of the loss of their families; some people even died owing to this suffering. He will never forget what happened.

The older people who were responsible for officiating the Mayan ceremonies died in the massacre and the traditions died with them, because the young people did not have anyone to teach them. Moreover, the military agents and the patrols monitored every meeting, so that they were afraid to hold their religious ceremonies. No one could speak freely or discuss the situation of repression and violence in which the community lived. The PAC and the military agents exercised strict control over the members of the community. Even though the activities of the patrols were halted some time between 1995 and 1996, their presence continued to intimidate the inhabitants.

The State has never done anything for the indigenous population; it does not provide them with access to education, housing, health care or political participation. No one has done anything for them, either before or after the massacre, because they do not exist for the rest of the Guatemalan population. Only indigenous people died in the Plan de Sánchez massacre, because no one wanted them, and no one wants them. If they had been mestizos they would not have been killed; proof of this is that nothing happens in the mestizo communities. The witness recalls hearing Rios Montt say on the radio that “all Indians must die.”

c) Statement of Luis Rodolfo Ramírez García, graduate in Juridical and Social Sciences, expert in customary law, particularly criminal customary law, and with a postgraduate degree in Criminal Law

Impunity continues with regard to the massacres committed in Guatemala at the time of the armed conflict. In rural areas, control systems, such as the PAC and the military agents, were put in place and, essentially, they took the place of judges, prosecutors and police. Given the Army's extensive penetration of Guatemalan society, almost all community activities took place only with the authorization of the regional military leader.

In view of the gravity of the act, and the notoriety of the massacre, the authorities had the obligation to open an investigation to determine the corresponding criminal liability, as of the day on which it was committed, July 18, 1982.

The Attorney General's office (Ministerio Público) acted with total irresponsibility when conducting the procedures of exhumation and investigation in the Plan de Sánchez case. First, although it is true that, during the initial stage of the investigation, an inquisitorial type of Penal Code was in force, the Attorney General's office was informed of the events and should have requested the judge to conduct investigation procedures. Second, even though it headed the

investigation, its action was reduced to receiving the testimonial evidence requested by the secondary plaintiffs. Third, although the witnesses provided valuable information to the proceeding, identifying victims, direct perpetrators, collaborators and the circumstances in which the massacre occurred, even at the risk of endangering their own lives, the Attorney General's office did not conduct any additional investigation activities. The judge responsible for the investigation submitted a request to the Supreme Court of Justice for the Ministry of Defense to provide information on the identification of the soldiers mentioned as responsible for the facts; neither the Supreme Court of Justice nor the Attorney General's office has followed up on this request.

A request should be made for the judge to receive the statements, as defendants, of the former members of PAC, military agents, members of the Judicial Police, and soldiers who have been identified as participants in the massacre. Also, the Army should be asked to provide information on the officers and soldiers who were serving in that part of the country at the time. In addition, the bodies of the victims should be examined to verify whether there is evidence of the type of weapons used and any other kind of information.

d) Statement of José Fernando Moscoso Möller, Archeology graduate, with a postgraduate degree in Latin American Studies

The first exhumation (trenches 1 to 21) was conducted in Plan de Sánchez on June 14, 1994, and the second exhumation (trench 22) on August 14, 1996. At the time of the first exhumation, no work was done on trench 22, because the office of the Baja Verapaz Auxiliary Prosecutor did not authorize this until later.

Two clandestine cemeteries were found in the village of Plan de Sánchez. The first comprised 16 trenches that contained osseous remains, 3 trenches with artifacts only, and two trenches where nothing was found. The other cemetery had one trench with osseous remains.

The minimum number of victims in the first 21 trenches was 84, based on the count of the most-often encountered bone. Of the 84 victims counted, it was possible to identify 25. Four victims were found in the second clandestine cemetery, and they were subsequently identified. Since a large part of the osseous remains were calcined and, according to testimonies, some of the non-calcined corpses were buried in other places by the next of kin themselves, it was not possible to determine whether there were more victims.

From his experience of forensic anthropology and exhumations, and from the facts that have been narrated, he can conclude that the findings in the 21 trenches where exhumations were conducted lead to the presumption that the events that occurred in Plan de Sánchez were consistent with an operation designed to destroy and annihilate the Maya-Achí indigenous group; the majority group in the region.

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33. The expert witness, Nieves Gómez Dupuis, submitted a written report during the public hearing (supra para. 17). [FN8]

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[FN8] Cf. written report presented by the expert witness, Nieves Gómez Dupuis, on April 24, 2004, (file on preliminary objections and merits and reparations, tome III, folios 625 to 638).

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34. The representatives presented several attachments, together with their final written arguments (supra para. 19). [FN9]

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[FN9] Cf. file of appendixes to the final written arguments of the victims' representatives, tome I, appendixes 1 to 9 and G-1 to G-7, folios 1 to 383; tome II, appendixes G-7 to G-14, folios 384 to 577.

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35. The Commission presented part of the helpful evidence requested by the Secretariat (supra para. 22). [FN10]

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[FN10] Cf. file of helpful evidence presented by the Inter-American Commission, single tome, folios 578 to 690.

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36. The representatives presented part of the helpful evidence requested by the Secretariat (supra para. 22). [FN11]

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[FN11] Cf. file of helpful evidence presented by the victims' representatives, single tome, folios 691 to 766.

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37. The State presented the helpful evidence requested by the Secretariat (supra para. 22). [FN12]

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[FN12] Cf. file of helpful evidence presented by the State, single tome, folios 767 to 930.

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## B) TESTIMONIAL AND EXPERT EVIDENCE

38. On April 23 and 24, 2004, the Court heard the statement of the witnesses, Juan Manuel Jerónimo, Buenaventura Manuel Jerónimo and Narcisa Corazón Jerónimo, and the expert witnesses, Augusto Willemsen-Díaz and Nieves Gómez Dupuis, proposed by the Inter-American Commission (supra para. 14). The Court will now summarize the relevant parts of these statements and reports.

a) Testimonial statement of Juan Manuel Jerónimo, victim

He belongs to the Mayan indigenous people of the Achí linguistic community. He has lived in the village of Plan de Sánchez since he was very young. He is a community leader, president of

the drinking water project committee, a catechist of the Catholic Church, and also a delegate and a health worker. He is responsible for summoning the inhabitants of Plan de Sánchez to perform community tasks and to take decisions on the community's needs. Before the massacre, the Plan de Sánchez community comprised approximately 40 families, and each family had a piece of land.

On Sunday, July 18, 1982, the witness was in his mother's house, with his wife, when news arrived that an Army patrol was approaching the Plan de Sánchez community on the road from Rabinal. His mother and his wife told him to leave the house and hide, because the Army was only looking for the men. When he left his mother's house, he could see how the Army was gathering the people it had brought with it into his sister's house. The Army then went from house to house collecting the neighbors and his family, including his children, his wife and his mother. He remained about 60 meters away watching what the Army did. He could hear the women and children's screams. When they were all gathered in his sister's house, they selected the "patojas" [Note: affectionate term for girls] of 15 to 18 years old and shut them up in another house. Then, the shooting began and they threw two grenades into the families gathered in his sister's house. When they had killed them, they went to the other house to get the girls; they raped them, tortured them, and cut their throats.

He lost 18 members of his family including his mother, his wife and his children, in the massacre.

The following day, the corpses of his loved ones were still burning, when the Chipuerta military agents arrived with orders from the Rabinal detachment to bury the remains within one hour; otherwise, they would all be killed. They performed an "atrocious burial" and were unable to identify their next of kin.

Their burial customs are based on the sacred love of the family and were well known and important within the community. When a member of the family dies, all the community is invited and a wake is held throughout the night with prayers, called "ceremonies" in Maya-Achí. The following day, those who will go to the cemetery to prepare the burial place are chosen; the "majordomos" who are in the house that is in mourning prepare the ritual of "accompanying the family." Flowers and candles are taken to the burial. All those present are invited to a ceremony of three mysteries, seven or nine days later. Likewise, ceremonies are performed after 40 days, and 7, 14 and 21 years after the death of a family member.

A few days after the massacre, the soldiers returned to the village and took all the domestic animals, hens, donkeys, cows, pigs and everything they had in their homes. They also took the objects of value they owned, "artisan work" or necklaces.

They had to remain hidden in the wilds from 1982 to 1984, and to organize themselves so they could survive. When the amnesty was decreed, they returned to Rabinal and contacted the chief agent in order to return to their "legitimate life." The chief agent ordered them to enlist in the patrol in the community of Chipuerta, and did not allow them to live in Plan de Sánchez.

For 15 years after the death of his loved ones, the regional authorities subjugated them and they lost all desire to perform the rites of their indigenous culture and hold their religious ceremonies.

As a culture, as indigenous people, and as human beings, they cannot accept that they were not able to bury their next of kin properly. The fact that a loved one dies does not mean that he disappears or ends, rather he remains spiritually present to his living next of kin. This is something that must not be lost. After the peace agreements were signed, they regained a little freedom and have been able to practice their Maya-Achí culture.

During the first years after the massacre, they made no effort to seek justice, because they were not allowed to speak about what had happened and about what they wanted to do. In 1994, they began to file complaints and a request to exhume and bury the remains of their loved ones. Approximately one year elapsed between when the judge was requested to authorize the exhumation and the moment when this was conducted. When the exhumation procedure had concluded, they were able to bury their next of kin according to their traditional ceremonies.

He knows of no investigation procedure against the perpetrators of the massacre, and he does not know whether the current President of Guatemala has apologized to the victims for the events that occurred during the armed conflict.

He considers that, as an indigenous person, his rights are not taken seriously and, consequently, the complaints have not been resolved. He relives the death of his mother, children and wife continuously, “as if it happened this morning.”

He hopes the State will provide justice and make financial reparation for all he has suffered and endured. He also considers that social reparation should be made to the neighboring communities that were affected, which do not have potable water, paved roads, or primary and secondary education.

b) Testimonial statement of Buenaventura Manuel Jerónimo, victim

He was born in the village of Plan de Sánchez and still lives there. At the time of the massacre he was 24 years old, unmarried, still lived with his parents and his sister, and farmed. He speaks Maya-Achí and learned Spanish when he was 18 years old.

On Sunday, July 18, 1982, between 1 p.m. and 2 p.m., the Army entered the community with a group of people they had brought from the municipality; they blocked the entrance to the village and took the people to the house of one of his sisters. Other soldiers went from house to house collecting the families. His mother told him to flee, that they were more likely to harass the men and would not do anything to the women. He left the house and hid about 150 meters away.

They separated the women of 15 to 20 years old, put them in his grandmother’s house, raped them, killed them, and left them lying there. They also separated the children of up to seven or eight years old – even the newborns – clubbed them to death and threw them on the fire. When it got dark, he crept away and hid in the wilds. He did not sleep all that night; he remained seated listening to the shots until 1 a.m., when the Army left.

He lost his mother, three sisters, two sisters-in-law and seven nephews and nieces of two to six years old in the massacre. He felt an anguish that no one could ever cure or heal, because that grief will never be forgotten. He has suffered a great deal over the past 22 years and he will never forget what happened.

The following day, the survivors were obliged to bury their dead. They finished burying the remains at around 5 p.m. and he felt very sad to think that they died unjustly and had not been buried with the due traditional respect. When the survivors returned to their homes, they saw that their good clothes had been taken, and their other clothes burnt, together with their beds, and their title deeds.

Following these events, they hid in the wilds for two years. In the daytime, they took turns to watch out for when the Army entered the village and, at night, they took refuge in the wilds. During these two years he suffered from malnutrition and various ailments.

When the amnesty was decreed in 1984, they were able to return from the wilds. However, by order of the military agent, they could not live in Plan de Sánchez and were obliged to join the

PAC. At that time, they forced men of 15 to 85 years old to take part in the patrols. This made them feel as if they were “guarding nothing,” because there were no criminals, or uniformed or armed individuals in their communities.

Subsequently, the witness was obliged to enlist in the Army for 30 months. On October 31, 1987, he left the military barracks and requested the authorization of the Rabinal detachment to return to Plan de Sánchez; consequently, he was obliged to join the patrol again.

The men who survived found second wives among women from other communities, because very few women were left in Plan de Sánchez after the massacre.

He could not tell anyone what had happened. Many people knew about the massacre, but no one had the right to speak about what the Army had done; the authorities said that anyone who spoke out about it was against them. After a long time, they filed a report through CALDH, which took their testimonies and submitted them to the Attorney General’s office. However, justice has still not been done, and the proceedings have not yielded any results. Violence, corruption and discrimination against indigenous people and peasants prevent justice from being done. Also, the judges have been threatened.

They represent all the departments where massacres occurred, because there is no difference between them. What happened in Plan de Sánchez occurred in other communities, so they are representing everyone.

He hopes that justice will be done, that the facts will be acknowledged, that those responsible will be prosecuted, and that this never happens again. It has been very difficult to recover all the property they lost, but the lives of their loved ones are priceless. They are protesting because there is no justice in everything they endured and continue to endure. They hope to improve their lives and that the State will respond to their needs in the areas of health, education and land. The community also needs a typing or computer center, and for the roads to be improved. Moreover, if the State started up a housing program, it would be a form of reparation. He considers that the State must comply with all the provisions of the Peace Agreements.

c) Testimonial statement of Narcisa Corazón Jerónimo, victim

She was born in the village of Plan de Sánchez and lived there with her mother and sister until the day of the massacre. As a child she spoke Maya-Achí and she learned Spanish when she was 18 or 19 years old.

On the day of the massacre, the yard around her house was filled with soldiers. The soldiers pointed their guns at her and warned her not to move and, since she did not speak Spanish, she only understood that they were asking for her father and mother. Then they left her house and began to “herd” all the victims, her aunts and her nephews and nieces, like animals. The small children screamed, crying out for help in their mother tongue, and no one helped them. When she saw that they were taking everyone, she thought that she should cry out for the soldiers to come back for her. The witness had no one to comfort her and wondered what the soldiers were doing. She hid in a ditch and could see when they took her grandfather by force to the place where they were going to burn everyone. She waited a while and went to look for someone who could explain what was happening to her. Some people say that indigenous people are ignorant, they do not accord them any importance, they are prejudiced against them, they discriminate against them, they do not pay any attention to them; consequently, the witness felt that she had no one to comfort her.



The witness heard her mother, who was walking through the village, scream and saw when they seized her 9-month old nephew from her mother, with its shawl and everything, and took them to the house where all the people were gathered. Shortly afterwards, the soldiers began to pour on gasoline, fire shots and then set fire to the house. At the time of the massacre, she was 13 or 14 years old. She lost her mother, sister, grandmother, aunts and all her cousins, even the babies, in these events. Her father had been murdered previously.

The following day, she was able to see the corpses, but only for a short time, because the soldiers granted three hours to bury her next of kin. The men buried what remained of the victims in a trench; the bodies were unrecognizable.

After the massacre, the witness remained in the village, in her aunt's house. During the day, they came to the village to cook and, at night, they returned to the wilds, because the soldiers kept returning to see if anyone remained in the village. They lost everything; her mother's house, their clothes, their food and their animals. Before the massacre, they had hens, pigs and crops. The witness only had the torn clothes that she was wearing.

Although she was poor, she had her natural parents. It is not the same to live as an orphan, without the comfort provided by her mother and without a father to care for her and love her. After the massacre, she wanted to die and, to continue living, she held onto the words of her aunt: "don't kill yourself, you must continue to struggle and, God knows, one day justice will be done." She was unable to live happily and peacefully; she was treated badly because she was an orphan; she had no one to pay for her education, food or clothes like other children do.

After three months she went to Rabinal and, for four years, worked for different families, washing, cooking and looking after children, for which she was paid three quetzals a month. In 1986, she went to live in Guatemala City. She never met anyone from the village of Plan de Sánchez and lost her links to her community. She did not want to attend the exhumation of the remains of her next of kin in Plan de Sánchez in 1994 or know anything about it.

She cannot forget what happened to her parents. The death of her loved ones and all she has endured has weakened her. She has had heart problems and had to be operated on twice; she herself paid for the operations with her earnings. She has received no help from the State. She now has four children who are affected by her grief. A short time ago, she took her husband's machete and pointed it at her neck to kill herself, but her husband stopped her, telling her not to do this for the sake of their children. It is time that justice is done; that those people should pay for the harm they did to her parents, her grandmother, to all the innocent children and those that could not be born. It is time for Mayans to have the same rights as mestizos, to be listened to, and their traditions appreciated.

She appears before the Court to support all the victims of the Plan de Sánchez massacre. She has not come just for herself, but for all those who lost loved ones, for the whole Mayan race in Guatemala, for all those who are unable to defend themselves, for all those who are unable to come forward to express their grief as she is doing. She wants justice to be done; reparation to be made; her testimony to be heard and considered, so that it makes a difference. She appears before the Court with her grief and knows that if all those present put themselves in her place, they would be unable to endure what she is feeling.

d) Expert report of Augusto Willemsen-Díaz, lawyer, international expert in the human rights of indigenous peoples

The culture of the indigenous people of Guatemala was different at the time of the initial contact and has remained different from the culture that came from abroad and which now predominates in the country. The possessors of that culture have made great efforts to keep it distinct, reproducing it and transmitting it to others, particularly their descendants. The Maya have had to resist several centuries of diverse types of pressure to abandon their different and differentiated culture and to adopt the other one, which is said to be preferable.

The many important differences between the Mayan culture and the predominant culture in Guatemala include, in particular, the special, intense spiritual relationship with the land; the access, ownership, management and administration of resources; the proclivity towards a rich biodiversity and ecology; the profound respect for nature; the forms of community social organization; the spirituality; the local knowledge and characteristic education; the membership in other linguistic families; the legal system that is updated every generation on millenary principles and customs, and the special ways of exercising self-determination and autonomy.

The impunity of the grave violations of their human rights may be explained by racism and discrimination, as indicated in the Peace Agreements that attempted to end the conflict. These agreements also embodied the rights of indigenous women, in the understanding that they suffered from triple discrimination, because they were women, indigenous and poor. Access to the State's justice system is very difficult for indigenous peoples, given the geographical distances and linguistic particularities. The courts usually hear them in Spanish and, even though there are interpretation services, insufficient importance is given to the task of the interpreters; also, the difference in cosmovisions makes this interpretation very difficult.

From 1979 to 1983 the Maya were oppressed, persecuted, harassed, attacked and put to death violently; this is reflected in the 200,000 deaths and 626 massacres that can be attributed to the State's security forces. The indigenous peoples, and the collective conscience and cultural identity of the survivors and their next of kin, were drastically affected; they were forced to flee their lands, abandon their traditional community structure based on the nuclear and extended family, and live in fear under military control.

When someone dies, rites are very important for the Mayan culture in general and the Maya-Achí culture, in particular. When a death occurs, the whole community accompanies the next of kin with different manifestations of solidarity. The next of kin, friends, neighbors and acquaintances come to the house of the person who has died with an offering: such as, sugar, corn or wood. The deceased is placed in a central part of the house, generally next to the family altar, with his head towards the west. He is cleaned and given his last bath. A vigil is kept over him for nine days with candles, flowers and incense. Prior to the Spanish influence, the vigil lasted seven days. The Maya believe that the spirits of their grandparents are present in the house; consequently, offerings are made to the body, and the spirits of the ancestors are offered flowers, incense, candles and wreaths, which are made at the time. Some of the most valued belongings of the deceased are placed in the coffin and the "novenario" [nine days of prayer and mourning] is observed in his house. Subsequently, on the ninth day, breakfast is prepared, and music is played all day. Then the "tiniente" arrives; this is a community elder who has been chosen as the intermediary between the living and the dead, and he leads the prayers to the deceased and calls on the spirits of those who have died before. The "tiniente" has two assistants who each have a candle and an incense-burner. Two musicians are also present, and they accompany the foregoing with melancholic music. The instruments they use are the so-called "adufe," which is a drum consisting of a square sound box made of leather, and a violin with strings made of hairs from a horse's tail or maguey bristles. The prayers and the music are

offered in the four cardinal points to the spirits of the ancestors, and next to the house altar. They also go out to pray and play music for the spirits of the ancestors in the “goteras”\* of the house, then in the center of the yard, when there is one, and finally they return to the altar.

The Achí practice “yakanik,” which is an invitation to the spirits of the ancestors to be present in homage to the deceased. Some of these prayers are syncretic and said in Spanish early in the evening. Half an hour later, the elders, together with the “tiniente,” pray in Mayan only. Near midnight, another Mayan prayer is said with the participation of the “tiniente” and his assistants, who lead him with candles and music to the altar, to the “goteras,” to the center of the yard and, once again, to the altar. At midnight, the “yakanik” takes place; this is the farewell to the spirits present in the prayers.

To prepare this, a list is made of the next of kin, friends and acquaintances who will be invited and they are sent a gourd filled with “chilate” (a drink prepared with cornmeal gruel), inviting them to the homage for the deceased. Those who are invited must bring flowers and candles. Those who do not receive “chilate” do not go, because they have not been invited. These rites and customs must be repeated one year after the death, and 7 and 14 years after it; in some case, it is also repeated after 21 years. The burial itself is carried out after a deep grave about two meters long has been dug, if the soil is soft; if the soil is stony or with rocks, a small pantheon is made with stones and rocks. Handfuls of soil are offered and thrown into the grave as a final memento and, in the case of a small pantheon, the soil is placed between the stones and rocks to close it.

For the Mayan culture, it is very important to be buried with all these rites, because the deceased is reborn and goes to join his ancestors. Otherwise, the spirits wander about lost; they are unable to maintain their contact with the living, or with the spirits of their grandparents, or with those who have died before them or with the new generations, and their “rebirth” is thwarted.

The activities of the Mayan traditional authorities are directed at knowing, consulting and taking into account the wishes of the members of the community; they try to respect, harmonize and coordinate this free will, bringing it to a consensus, from which they legitimize their exercise of authority.

Nevertheless, within the egalitarian and horizontal tendency of the Achí social organization, there are seven authorities organized vertically. There are three main authorities who take the community’s important decisions once they know the wishes of its members. The first authority is the “tiniente,” invited to mediate between the heart of the sky and the heart of the earth and the human beings that make up the community; he acts with the other two main authorities. The four remaining authorities are those who implement the decisions taken by the main authorities. One of these authorities is the helper or coordinator, who directs the implementation of the decisions. These implementers have a precise understanding of their functions, and exercise them with respect and without major problems.

This system was invaded when the military agents and the PAC leaders arrived to set aside the whole structure and substitute it with one that was radically militaristic, vertical, arrogant and overbearing, at the head of which they placed themselves. The effect of this strategy was to destroy the community mechanisms, the oral transmission of cultural knowledge, and to violate the Mayan rules and values of respect and service to the community. The selection, harassment, punishment and elimination of the elderly and the women, oral transmitters of their millenarian culture, ensured the loss of oral knowledge, which has caused almost irreparable damage.

To end racism and discrimination against the indigenous people in Guatemala, he recommends, in particular, raising awareness about what happened so that people realize the immensity of the

abuse. This requires widespread dissemination of precise and exact information. On that basis, measures must be taken at all levels by Government authorities, civil society and, above all, the indigenous people, to ensure that such events never happen again.

Although he considers that the design and execution of a national program of reparation and compensation for the damage caused to the survivors and to the community of Plan de Sánchez – particularly the non-pecuniary damage – is a positive and important measure, the State should make an effort to define the basic elements of a policy to overcome racism and racial discrimination.

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\* The place where the rainwater runs down from the tiles to the corridor of the house, in Achi, it is called ub'etz'uj (the raindrop channel).

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e) Expert report of Nieves Gómez Dupuis, psychologist

For the victims, the Plan de Sánchez massacre was a sudden event that caused profound traumas. The way people were rounded up, the extreme cruelty with which they died, the rape and torture, the death of the children, the decomposition of the bodies, the lack of funeral rites, the destruction of homes and crops, the theft of belongings, the military harassment, and the impunity, terrified the survivors and made them afraid to report the events, to meet together, and to express their needs their culture and their spirituality.

The survivors display the symptoms of serious, chronic post-traumatic stress; manifested by re-experiencing the sight and smell of the burnt corpses; in hyper-alertness characterized by sleep disorders, watchfulness, outbursts of anger towards their families, and fear of the Army; in avoidance, through the use of alcohol, loss of interest in activities they once enjoyed and, in some cases, a death-wish. Many suffer from psychosomatic and physical ailments, the origin of which it has been impossible to determine, owing to inexistent or inadequate medical and psychological care. They also manifest mourning disorders, fear, feelings of guilt, and bouts of weeping.

These symptoms have hindered the personal development and adversely affected the quality of life of the survivors, at the individual, family, social and labor levels.

The trust that existed between the inhabitants of the community has deteriorated. The survivors were accused of being guerrillas and of committing the massacre. In addition, they were obliged to live alongside the perpetrators and see them in the town's public areas. In general, the survivors reject participation in politics and are skeptical about justice.

The community life project was seriously damaged by the break-up of the group, the loss of social references, the destruction of their culture, and also by the elimination of their leaders. The destruction of the social fabric persists owing to the obligatory substitution of the traditional systems of social control by military control systems, the obligation to patrol with the perpetrators of the massacre, and the impossibility of beginning to rebuild the community until 1988.

Family roles were disrupted by the death of the women. The death of the children entailed the rupture of the lineage and of a life project that included expectations of progress for the family. The death of the elders destroyed the power structures in Plan de Sánchez and the traditional forms of conflict resolution, it also impaired the oral transmission of the culture and spirituality,

which was the women's responsibility. The men sought to create new households and married women from other villages, so that today they are fathers when they should be grandfathers. In the long term, the new generation has been affected by the frustrations and the feelings of grief, sadness and anguish of their parents, manifested by domestic violence, alcoholism and avoidance.

After the massacre, the general context of insecurity did not allow the community to go through its mourning process. The external demands were such that there was no time to weep for their dead and, even though they knew who and what they had lost, they could not find a meaning for those deaths. Also, the fact that the survivors found the calcined corpses of their next of kin and were obliged to bury them without the funeral rites destroyed the relationship between the living and the dead who should remain in harmony.

According to the Report of the Historical Clarification Commission of Guatemala, the rape of the women was a common practice designed to destroy one of their most intimate and vulnerable aspects of a person's dignity. The memory and the dignity of women, the group's procreators and transmitters, were damaged at the cultural, social, family and individual level. The communities themselves were affected by this practice; it became a motive of collective shame. The impunity and the continuing proximity of the perpetrators of the rape has prevented the women from taking part in the processes of justice and meant that the terror they experienced during the massacre persists today.

The absence of punishment and justice makes it difficult to assess the effects of the violence. Society's failure to acknowledge the violations mean the victims continue to be isolated and stigmatized, increases the polarization between social groups, and does not allow either the social fabric or the community life project to be rebuilt. Community-based measures are needed that are designed to make collective reparation of the cultural vacuum that has been created and rebuild the community identity. It is also fundamental that the reparations should take the new generations into account.

The victims agree that the following are needed: a public acknowledgement of the events by a representative of the State in the town of Rabinal; State participation in days set aside to commemorate the massacre; establishment of a monument; publicizing of the proceedings before the inter-American system; and implementation of a national compensation plan and a program of psychological care. In some cases, medical and pharmacological care is also needed. The women who were raped must be consulted to see how this can be repaired. The expert witness recommended implementing special programs of psychological and medical care.

## C) ASSESSMENT OF THE EVIDENCE

### Assessment of the Documentary Evidence

39. In this case, as in others, [FN13] the Court accepts the probative value of the documents presented by the parties at the proper procedural opportunity or as helpful evidence, that were not contested or opposed, and whose authenticity was not questioned.

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[FN13] Cf. Case of Tibi, *supra* note 3, para. 77; Case of the "Juvenile Reeducation Institute", *supra* note 3, para. 80, and Case of Ricardo Canese, *supra* note 3, para. 61.

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40. The Court admits the statements made before notary public by Benjamín Manuel Jerónimo and Eulalio Grave Ramírez (supra para. 32(a) and 32(b)), as required by the President in the order of February 19, 2004, (supra para. 11), and assesses them with the body of evidence. The Court considers that, as they are victims who have a direct interest in the case, their statements must be assessed together with all the evidence in the proceeding and not in isolation. The statements of the victims are particularly useful insofar as they can provide more information on the consequences of the violations that may have been perpetrated against them. [FN14]

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[FN14] Cf. Case of Tibi, supra note 3, para. 86; Case of the “Juvenile Reeducation Institute”, supra note 3, para. 97, and Case of Ricardo Canese, supra note 3, para. 66.

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41. The Court admits the statements made before notary public by Luis Rodolfo Ramírez García and José Fernando Moscoso Möller (supra para. 32(c) and 32(d)), as required by the President in the order of February 19, 2004, (supra para. 11), and grants them probative value.

42. Regarding the attachments submitted by the victims’ representatives together with the final written arguments (supra para. 34), the Court considers them useful and observes that they were not contested or opposed, and their authenticity was not questioned. Consequently, it adds them to the body of evidence, in accordance with the provisions of Article 45(1) of the Rules of Procedure.

43. The Court considers that the written report presented by the expert witness, Nieves Gómez Dupuis, during the public hearing held on April 24, 2004 (supra paras. 17 and 33), is useful for deciding this case and observes that this document was not contested or opposed, and its authenticity was not questioned, consequently, it decides to add it to the body of evidence, in accordance with the provisions of Article 45(1) of the Rules of Procedure.

44. The Court incorporates the documentation remitted by the Commission, the representatives and the State as helpful evidence into the body of evidence, in accordance with the provisions of Article 45(2) of the Rules of Procedure. The Court notes that, with the helpful evidence, the representatives forwarded the birth certificate of Héctor Manuel García Mejicanos issued on November 4, 2004, by the Registry Office of the municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A. (supra para. 36), which they had not offered and the Court had not requested. Since this documentation is useful for deciding the instant case, it is admitted as helpful evidence in accordance with Article 45(1) of the Rules of Procedure.

45. The Court also incorporates into the body of evidence in this case, the Report of the Historical Clarification Commission, “Guatemala, Memoria del Silencio” (hereinafter “HCC Report”), considering it a document of acknowledged historical value, useful for deciding this case; it is added to the body of evidence in accordance with Article 45(1) of the Rules of Procedure.

## Assessment of the Testimonial and Expert Evidence

46. The Court admits the statements made at the public hearing by Juan Manuel Jerónimo, Buenaventura Manuel Jerónimo and Narcisa Corazón Jerónimo (*supra* paras. 14 and 38(a), 38(b) and 38(c)), insofar as they correspond to the purpose of the assessment, and considers them together with the body of evidence. The Court considers that, as they are victims and have a direct interest in the case, their statements must be assessed together with all the evidence in the proceeding and not in isolation. The statements of the victims are particularly useful insofar as they can provide more information on the consequences of the violations that may have been perpetrated against them. [FN15]

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[FN15] Cf. Case of Tibi, *supra* note 3, para. 86; Case of the “Juvenile Reeducation Institute”, *supra* note 3, para. 97, and Case of Ricardo Canese, *supra* note 3, para. 66.

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47. With regard to the reports of the expert witnesses, Augusto Willemsen-Díaz and Nieves Gómez Dupuis (*supra* paras. 14 and 38(d) and 38(e)), which were not opposed or contested, the Court admits them and assesses them with the body of evidence, applying the rules of sound criticism.

48. In light of the above, the Court will assess the probative value of the documents, statements and expert reports presented in writing or made before it. The evidence presented during the proceeding has been incorporated into a single body of evidence, which is considered as a whole. [FN16]

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[FN16] Cf. Case of Tibi, *supra* note 3, para. 89; Case of the “Juvenile Reeducation Institute”, *supra* note 3, para. 100, and Case of Ricardo Canese, *supra* note 3, para. 68.

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## VII. PROVEN FACTS

49. The facts established in the judgment on merits delivered by this Court on April 29, 2004 (*supra* para. 18), are deemed incorporated into the instant judgment; some of them have been reconsidered in this judgment. The Court considers that the following facts have been proven.

Regarding the Plan de Sánchez village

49(1) Plan de Sánchez is one of the villages of the municipality of Rabinal. This municipality is predominantly inhabited by members of the Mayan indigenous people belonging to the Achí linguistic community. [FN17]

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[FN17] Cf. Case of the Plan de Sánchez Massacre. Judgment of April 29, 2004. Series C. No. 105, paras. 42(9) and 42(10).

Regarding the Plan de Sánchez Massacre

49(2) On Sunday, July 18, 1982, market day in Rabinal, the inhabitants of the neighboring villages passed through Plan de Sánchez towards their own communities. At approximately 8 a.m. that day, two shells from a 105-mm. caliber mortar were fired to the east and west of the village. Between 2 p.m. and 3 p.m. a commando of approximately 60 individuals, comprising members of the Army, military and judicial agents, civilian informers and patrollers, dressed in military uniform and carrying assault weapons, entered Plan de Sánchez. They gathered the girls, and young women in one place, where they were physically abused, raped, and murdered. The older women, men, and boys were gathered in another place, and subsequently executed; two grenades were thrown and the house where they had been placed was set on fire. Around 268 people were executed, most of them members of the Maya-Achí people. Some of them were residents of the neighboring villages of Chipuerta, Joya de Ramos, Raxjut, Volcanillo, Coxojabaj, Las Tunas, Las Minas, Las Ventanas, Ixchel, Chiac, Concul and Chichupac. [FN18]

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[FN18] Cf. Case of the Plan de Sánchez Massacre, *supra* note 17, paras. 42(15), 42(16), 42(17), 42(18) and 42(21).

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Regarding events subsequent to the Plan de Sánchez Massacre

49(3) On July 19, 1982, the residents who had not been present or who had escaped returned to the village of Plan de Sánchez, found that smoke was still rising from the house that had been set on fire and that most of the bodies were unrecognizable. At about 3 p.m. or 4 p.m., the military agents from Chipuerta and Concul arrived in the village, accompanied by members of the local PAC, and ordered the survivors to bury the corpses rapidly at the site of the massacre. Some bodies were taken by their next of kin to the village of Concul to bury them in a cemetery. [FN19]

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[FN19] Cf. Case of the Plan de Sánchez Massacre, *supra* note 17, paras. 42(22) and 42(23).

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49(4) Members of the commando looted and destroyed the homes, stole belongings, food, animals and personal effects (coming back several times for this purpose), and threatened the villagers who had returned. Owing to the fear resulting from these events, and the threats and harassment of the military agents, members of PAC and the Army, the survivors of the massacre gradually decided to abandon the village in the weeks and months following the massacre. The displaced survivors remained outside the community for several years. Two and a half years after the events, the brothers Buenaventura Manuel Jerónimo, Benjamín Manuel Jerónimo, Juan Manuel Jerónimo and Salvador Jerónimo Sánchez returned to the municipal capital of Rabinal and contacted the military agent, who allowed them to remain in the region if they joined the PAC; he did not allow them to farm their land, rebuild their homes or live in the village of Plan



de Sánchez. Other families of displaced survivors who returned were obliged to live in the municipal capital of Rabinal. Subsequently, they were allowed to farm their land. In 1985, the survivors were authorized to live in the village of Plan de Sánchez, but always under the supervision and threat of the Army and the military agent. [FN20]

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[FN20] Cf. Case of the Plan de Sánchez Massacre, *supra* note 17, paras. 42(24), 42(25), 42(26) and 42(27).

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49(5) By 1987, approximately twenty families had returned to the village, and they continued to be threatened by the military agent, who frequently warned them that they should remain silent about events related to the massacre. In the years following the massacre, the survivors and the next of kin of those murdered in the event were reluctant to seek justice and denounce the clandestine cemeteries in the village, owing to the very real fear of permanent harassment, threat and surveillance by the regional military authorities. In 1992, they informed the judicial authorities about the location of the clandestine cemeteries. They were subsequently harassed and threatened by State agents. [FN21]

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[FN21] Cf. Case of the Plan de Sánchez Massacre, *supra* note 17, paras. 42(28) and 42(29).

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Regarding the judicial procedures

Exhumations

49(6) On December 10, 1992, the existence of a clandestine cemetery in the village of Plan de Sánchez was reported. On May 7, 1993, the Ombudsman filed a complaint before the Attorney General's office, on behalf of the community, regarding the massacre in the village of Plan de Sánchez. The judicial authorities opened case No. 391/93 in the Court of First Instance of Salamá, Baja Verapaz, and in the Attorney General's office. On June 8, 1994, the Guatemalan Forensic Anthropology Team (hereinafter "GFAT") began exhumation procedures on 21 common graves located in the center of the village of Plan de Sánchez, which were completed at the end of August 1994. As a result of these procedures, the osseous remains of 84 people were exhumed. On April 7, 1995, GFAT delivered the report on the forensic anthropological investigations to the Salamá District Prosecutor, and attached the ballistic material recovered during the exhumations. When GFAT conducted this procedure, it noted the existence of another clandestine grave, which had not been reported, referred to as grave No. 22. On August 10, 1994, the Ombudsman's office requested the Attorney General's office to expand the exhumation procedure to this grave. On August 12, 1994, the Attorney General's office requested the Baja Verapaz Judge of First Instance to authorize this expansion. Following repeated requests, on May 6, 1996, the Baja Verapaz Judge of First Instance ordered the commencement of a new procedure under No. 344/95. On August 14, 1996, GFAT started the investigation of grave No.

22, which concluded on August 16, 1996, with the exhumation of 4 skeletons. On December 22, 1997, GFAT presented a forensic anthropology report to the District Prosecutor of the Attorney General's office of Salamá, Baja Verapaz. [FN22]

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[FN22] Cf. Case of the Plan de Sánchez Massacre, *supra* note 17, paras. 42(31), 42(32), 42(33), 42(34), 42(35) and 42(36).

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49(7) As of 1994, members of the Plan de Sánchez community could bury some of their next of kin who had been murdered in the massacre in accordance with Mayan ceremonies, and their beliefs and spirituality. [FN23]

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[FN23] Cf. Case of the Plan de Sánchez Massacre, *supra* note 17, para. 42(30).

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#### Decision of the Ombudsman's office

49(8) On September 2, 1996, the Ombudsman's office issued a decision on the massacres in Plan de Sánchez, Chichupac and Río Negro, all in Rabinal, Baja Verapaz, in which he concluded that these massacres were carried out as part of a premeditated State policy. The decision established the responsibility of State agents, including the PAC, the military agents, and members of the Army and high-ranking officers, for not having protected the local population and for attempting to cover up the crime to ensure the impunity of the perpetrators and masterminds. [FN24]

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[FN24] Cf. Case of the Plan de Sánchez Massacre, *supra* note 17, para. 42(37).

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#### Criminal proceedings

49(9) On February 13, 1997, Salvador Jerónimo Sánchez, Buenaventura Manuel Jerónimo, Adrián Cajbon Jerónimo, Benjamín Manuel Jerónimo, Pedro Grave Cajbon and Juan Manuel Jerónimo, requested the Baja Verapaz Judge of First Instance for Criminal Affairs to admit them as adherent plaintiffs in proceedings Nos. 391/93 and 344/95. On February 25, 1997, the Baja Verapaz Judge of First Instance for Criminal Affairs admitted them in this capacity. The said individuals requested the Attorney General's office, through the Ministry of Defense, to determine the names of: the persons who comprised the military patrol that carried out the massacre in the Plan de Sánchez village; the Minister of Defense at the time of the massacre; the Chief of General Staff; the Commanders of military zone No. 5 headquartered in Salamá; the Commanders of the detachment headquartered in Rabinal; and the officers who commanded the Guatemalan Army on the day of the events; also, the hierarchic structure of the Army at that time, identification of the officers who headed it, and determination of their responsibilities. They also requested that the ballistic material found in the clandestine cemetery should be

examined by an expert; that the statements of the witnesses should be received, and that the forensic anthropology reports on the exhumations should be assessed. The Coban Judge of First Instance ordered the Prosecutor's office to ask the Ministry of Defense for the information requested by the adherent plaintiffs. The Attorney General's office requested the Ministry of Defense to submit the information requested by the plaintiffs. In file No. 1618/97 processed by the Coban Criminal Court of First Instance, there is no record of a reply from the Ministry of Defense to the requests for information from the Guatemalan judicial authorities. No State agent, even those accused by the plaintiffs, was summoned to provide testimony; consequently, no one was investigated. The status of the criminal proceeding is unknown at this time. [FN25]

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[FN25] Cf. Case of the Plan de Sánchez Massacre, supra note 17, paras. 42(38), 42(42), 42(43), 42(44), 42(45) and 42(46).

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49(10) The surviving victims of the massacre are as follow: [FN26]

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[FN26] The victims included are those who appear in proven fact 42(48) of the judgment on merits delivered by the Court on April 29, 2004, and according to the lists of surviving victims submitted by the representatives in the appendixes to the final arguments brief and to the helpful evidence.

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49(10.1) Carmen and Narcisa, both Corazón Jerónimo

- i) Carmen and Narcisa were born on March 25, 1960, [FN27] and March 18, 1968, [FN28] respectively;
- ii) Narcisa Corazón Jerónimo was 14 years old when the massacre took place. She was orphaned. In 1986, she went to live in Guatemala City and lost touch with the members of the Plan de Sánchez community. Today, she works in this city and lives with her husband and her four children. She continues to suffer from the absence of her mother and has wanted to die. She suffers from a series of physical and psychological ailments and has not received any assistance from the State, [FN29] and
- iii) Her mother, Victoria Jerónimo Grave, [FN30] her sister, Dominga Corazón Jerónimo, [FN31] and her nieces, María Dolores Alvarado Corazón [FN32] and Francisca Jerónimo Corazón, died in the massacre.

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[FN27] Cf. birth certificate of Carmen Corazón Jerónimo issued on May 13, 2004, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 151, folio 76, ledger 74 (file of appendixes to the final arguments brief of the victims' representatives, tome II, appendix 6, folio 523).

[FN28] Cf. birth certificate of Narcisa Corazón Jerónimo issued on May 13, 2004, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A.,

No. 237, folio 179, ledger 81 (file of appendixes to the final arguments brief of the victims' representatives, tome II, appendix 6, folio 524).

[FN29] Cf. testimony of Narcisca Corazón Jerónimo given before the Inter-American Court during the public hearing held on April 23, 2004.

[FN30] Cf. death certificate of Victoria Jerónimo Grave issued on August 1, 2001, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 970, folio 485, ledger 59 (file of appendixes to the final arguments brief of the victims' representatives, tome II, appendix 7, folio 528).

[FN31] Cf. birth certificate and death certificate of Dominga Corazón Jerónimo issued on November 19, 2002, and June 5, 1998, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 540, folio 270, ledger 76 and No. 289, folio 145, ledger 59, respectively (file of appendixes to the final arguments brief of the victims' representatives, tome II, appendixes 6 and 7, folios 527 and 526).

[FN32] Cf. death certificate of María Dolores Alvarado Corazón issued on August 1, 2001, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 971, folio 486, ledger 59 (file of appendixes to the final arguments brief of the victims' representatives, tome II, appendix 7, folio 525).

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49(10.2) Margarita, Tomás and Valerio, all Grave Cajbón, and Eulalio Grave Ramírez

i) Margarita, Tomás and Valerio were born on November 16, 1974, [FN33] December 21, 1972, [FN34] and January 29, 1977, [FN35] respectively; Eulalio was born on December 14, 1948, [FN36] and married María Modesta Cajbón Grave on March 27, 1965; [FN37]ii) Eulalio Grave Ramírez was born in Plan de Sánchez and still lives there; he farms. When he returned to the village two years after the massacre, he was threatened and continually under military surveillance. He was forced to enlist in the PAC and to remain silent about what had happened to his next of kin. Religious practices and meetings were prohibited in the community. The State has not returned his property. He continues to suffer due to what happened, [FN38] and

iii) María Modesta Cajbón Grave, [FN39] wife of Eulalio and mother of Margarita, Tomás and Valerio, died in the massacre; and also Esteban, [FN40] Francisco [FN41] and Juana, [FN42] all Grave Cajbón, children of Eulalio, and siblings of Margarita, Tomás and Valerio.

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[FN33] Cf. birth certificate of Margarita Grave Cajbón issued on May 13, 2004, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 861, folio 431, ledger 87 (file of appendixes to the final arguments brief of the victims' representatives, tome II, appendix 6, folio 530).

[FN34] Cf. birth certificate of Tomás Grave Cajbón issued on May 13, 2004, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 870, folio 435, ledger 85 (file of appendixes to the final arguments brief of the victims' representatives, tome II, appendix 6, folio 531).

[FN35] Cf. birth certificate of Valerio Grave Cajbón issued on May 13, 2004, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 213, folio 107, ledger 90 (file of appendixes to the final arguments brief of the representatives of the alleged victims and their next of kin, tome II, appendix 6, folio 532).

[FN36] Cf. birth certificate of Eulalio Grave Ramírez issued on May 13, 2004, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 562, folio 372, ledger 59 (file of helpful evidence provided by the victims' representatives, appendix 4, folio 721).

[FN37] Cf. marriage certificate of Eulalio Grave Ramírez and María Modesta Cajbón Grave issued on May 18, 2004, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 34, folios 87 to 89, ledger 34 (file of appendixes to the final arguments brief of the victims' representatives, tome II, appendix 8, folio 529).

[FN38] Cf. statement made before notary public by Eulalio Grave Ramírez on March 9, 2004 (file on preliminary objections and merits and reparations, tome III, folios 489 to 502).

[FN39] Cf. death certificate of María Modesta Cajbón issued on November 16, 1998, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 140, folio 70, ledger 60 (file of appendixes to the final arguments brief of the victims' representatives, tome II, appendix 7, folio 533).

[FN40] Cf. birth certificate and death certificate of Esteban Grave Cajbón issued on February 14, 2001, and on November 18, 1998, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 868, folio 434, ledger 82 and No. 143, folio 72, ledger 60, respectively (file of appendixes to the final arguments brief of the victims' representatives, tome II, appendixes 6 and 7, folios 534 and 535).

[FN41] Cf. birth certificate and death certificate of Francisco Grave Cajbón, issued on February 14, 2001, and on November 16, 1998, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 63, folio 32, ledger 81 and No. 141, folio 71, ledger 60, respectively (file of appendixes to the final arguments brief of the victims' representatives, tome II, appendixes 6 and 7, folios 536 and 537).

[FN42] Cf. birth certificate and death certificate of Juana Grave Cajbón issued on February 14, 2001, and on November 16, 1998, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 186, folio 93, ledger 93 and No. 144, folio 72, ledger 60, respectively (file of appendixes to the final arguments brief of the victims' representatives, tome II, appendixes 6 and 7, folios 538 and 539).

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49(10.3) Benjamín, Juan, Buenaventura and Esteban, all Manuel Jerónimo, and Guillermo Toj Manuel

i) Benjamín, Juan, Buenaventura and Esteban were born on March 31, 1953, [FN43] December 27, 1944, [FN44] January 18, 1955, [FN45] and August 2, 1960, [FN46] respectively;

ii) Benjamín Manuel Jerónimo was born in Plan de Sánchez and lives there now. He had many problems, particularly of a financial nature, reinitiating his life. He was obliged to enlist in the PAC. The village of Plan de Sánchez was militarized, and he was the victim of repression, discrimination and persecution. He feels fear and anger about those responsible for the massacre; [FN47]

iii) Buenaventura Manuel Jerónimo was 24 years old when the massacre took place. He lived in Plan de Sánchez with his parents and farmed. He lost his house and belongings. Subsequently, he was obliged to take part in the PAC and do military service. In 1988, he obtained authorization from the regional military detachment to return to Plan de Sánchez. In 1992, he

filed a criminal complaint, together with other survivors; he even gave testimony, but to date, justice has not been done; [FN48]

iv) Juan Manuel Jerónimo has been a leader of the Plan de Sánchez community. Currently, he is president of the potable water committee, a catechist, delegate and health promoter. He farms. Two years after the massacre, he returned to the village, where he was permanently watched and harassed by the Army. Religious ceremonies and meetings were prohibited. At the beginning, they were unable to seek justice, because they were not allowed to talk about what had occurred. The investigation process against those responsible for the massacre has not produced any result, [FN49] and

v) Julia Jerónimo Grave, [FN50] mother of Benjamín, Juan, Buenaventura and Esteban, and their sisters Angelina, [FN51] Graciela [FN52] and Rosa, [FN53] all Manuel Jerónimo, died in the massacre. Rosa was also the mother of Guillermo. María Dolores Ic Rojas, [FN54] wife of Benjamín Manuel Jerónimo; Petronila Xitumul, [FN55] wife of Juan, and María Zoila, [FN56] María Hilda [FN57] and Baudilio Enrique, [FN58] all Manuel Xitumul, children of Juan also died. Francisco, [FN59] María Clara [FN60] and Rosendo, [FN61] all Toj Manuel, siblings of Guillermo and nephews and niece of Benjamín, Juan, Buenaventura and Esteban, also died in the massacre.

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[FN43] Cf. birth certificate of Benjamín Manuel Jerónimo issued on May 18, 2004, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 768, folio 499, ledger 64 (file of appendixes to the final arguments brief of the victims' representatives, tome II, appendix 6, folio 551).

[FN44] Cf. birth certificate of Juan Manuel Jerónimo issued on May 27, 2004, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 335, folio 335, ledger 54 (file of appendixes to the final arguments brief of the victims' representatives, tome II, appendix 6, folio 552).

[FN45] Cf. birth certificate of Buenaventura Manuel Jerónimo issued on May 17, 2004, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 777, folios 483 and 484, ledger 67 (file of appendixes to the final arguments brief of the victims' representatives, tome II, appendix 6, folio 552-a).

[FN46] Cf. birth certificate of Esteban Manuel Jerónimo issued on May 17, 2004, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 511, folios 256, ledger 74 (file of appendixes to the final arguments brief of the victims' representatives, tome II, appendix 6, folio 553).

[FN47] Cf. statement made before notary public by Benjamín Manuel Jerónimo on March 9, 2004, (file on preliminary objections and merits and reparations, tome III, folios 470 to 488).

[FN48] Cf. testimony of Buenaventura Manuel Jerónimo given before the Inter-American Court during the public hearing held on April 23, 2004.

[FN49] Cf. testimony of Juan Manuel Jerónimo given before the Inter-American Court during the public hearing held on April 23, 2004.

[FN50] Cf. death certificate of Julia Jerónimo Grave issued on June 17, 1998, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 993, folio 497, ledger 59 (file of appendixes to the final arguments brief of the victims' representatives, tome II, appendix 7, folio 554).

[FN51] Cf. birth certificate and death certificate of Angelina Manuel Jerónimo issued on November 18, 2002, and June 5, 1998, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 498, folio 249, ledger 71 and No. 211, folio 106, ledger 59, respectively (file of appendixes to the final arguments brief of the victims' representatives, tome II, appendixes 6 and 7, folios 555 and 556).

[FN52] Cf. birth certificate and death certificate of Graciela Manuel Jerónimo issued on November 19, 2002, and on June 17, 1998, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 581, folio 90, ledger 57 and No. 995, folio 498, ledger 59, respectively (file of appendixes to the final arguments brief of the victims' representatives, tome II, appendixes 6 and 7, folios 557 and 558).

[FN53] Cf. birth certificate and death certificate of Rosa Manuel Jerónimo issued on November 19, 2002, and on June 17, 1998, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 729, folio 144, ledger 51 and No. 994, folio 497, ledger 59, respectively (file of appendixes to the final arguments brief of the victims' representatives, tome II, appendixes 6 and 7, folios 559 and 560).

[FN54] Cf. birth certificate and death certificate of María Dolores Ic Rojas issued on May 17, 2004, and June 5, 1998, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 245, folio 123, ledger 77 and No. 210, folio 105, ledger 59, respectively (file of appendixes to the final arguments brief of the victims' representatives, tome II, appendixes 6 and 7, folios 567 and 568).

[FN55] Cf. death certificate of Petronila Xitumul issued on May 15, 1998, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 984, folio 492, ledger 59 (file of appendixes to the final arguments brief of the victims' representatives, tome II, appendix 7, folio 566).

[FN56] Cf. birth certificate of María Zoila Manuel Xitumul issued on September 13, 2000, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 613, folio 307, ledger 88 (file of appendixes to the final arguments brief of the victims' representatives, tome II, appendix 6, folio 561).

[FN57] Cf. birth certificate and death certificate of María Hilda Manuel Xitumul issued on September 13, 2000, and May 15, 1998, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 967, folio 484, ledger 92 and No. 986, folio 493, ledger 59, respectively (file of appendixes to the final arguments brief of the victims' representatives, tome II, appendixes 6 and 7, folios 562 and 563).

[FN58] Cf. birth certificate and death certificate of Baudilio Enrique Manuel Xitumul issued on September 13, 2000 and on May 8, 2002, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 626, folio 313, ledger 96 and No. 987, folio 494, ledger 59, respectively (file of appendixes to the final arguments brief of the victims' representatives, tome II, appendixes 6 and 7, folios 564 and 565).

[FN59] Cf. death certificate of Francisco Toj Manuel issued on June 17, 1998, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 997, folio 499, ledger 59 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 7, folio 218).

[FN60] Cf. death certificate of María Clara Toj Manuel issued on June 17, 1998, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 996, folio 498, ledger 59 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 7, folio 219).

[FN61] Cf. death certificate of Rosendo Toj Manuel issued on April 18, 2002, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 212, folio 106, ledger 59 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 7, folio 220).

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49(10.4) Plácido Jerónimo Grave

- i) Plácido was born on October 5, 1937, and married Gabina Tecú Chajáj on November 28, 1969, [FN62] and,
- ii) His children, Bernardina, [FN63] Candelaria, [FN64] Delfina, [FN65] Filadelfo, [FN66] Francisca, [FN67] Rosalía [FN68] and Juliana, all Jerónimo Tecú; his mother, Guillerma Grave Manuel, [FN69] and his wife, Gabina Tecú Chajáj, [FN70] died in the massacre.

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[FN62] Cf. birth certificate and marriage certificate of Plácido Jerónimo Grave issued on May 17 and 18, 2004, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 139, folios 108 and 109, ledger 47 and Nos. 19 and 69, folios 37 and 38, ledger 37, respectively (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendixes 6 and 8, folios 71 and 74).

[FN63] Cf. death certificate of Bernardina Jerónimo Tecú issued on June 17, 1998, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 20, folio 10, ledger 60 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 7, folio 75).

[FN64] Cf. birth certificate of Candelaria Jerónimo Tecú issued on May 18, 2004, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 237, folio 119, ledger 90 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 6, folio 72).

[FN65] Cf. birth certificate and death certificate of Delfina Jerónimo Tecú issued on May 18, 2004, and on June 17, 1998, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 705, folio 353, ledger 83 and No. 16, folio 8, ledger 60, respectively (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendixes 6 and 7, folios 73 and 76).

[FN66] Cf. death certificate of Filadelfo Jerónimo Tecú issued on June 17, 1998, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 21, folio 11, ledger 60 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 7, folio 77).

[FN67] Cf. death certificate of Francisca Jerónimo Tecú issued on June 17, 1998, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 18, folio 9, ledger 60 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 7, folio 78).

[FN68] Cf. death certificate of Rosalía Jerónimo Tecú issued on June 17, 1998, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 17, folio 9, ledger 60 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 7, folio 79).



[FN69] Cf. death certificate of Guillerma Grave Manuel issued on June 5, 1998, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 209, folio 105, ledger 59 (file of appendixes to the final arguments brief of the victims' representatives, tome II, appendix 7, folio 571).

[FN70] Cf. birth certificate and death certificate of Gabina Tecú Chajáj issued on November 18, 2002, and on June 17, 1998, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 517, folios 482, ledger 66 and No. 15, folio 8, ledger 60, respectively (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendixes 6 and 7, folios 80 and 81).

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49(10.5)      Margarita Ivoy

- i)      Margarita was born on February 20, 1945, [FN71] and
  - ii)     Her mother, Rufina Xitumul Iboy, [FN72] died in the massacre.
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[FN71] Cf. birth certificate of Margarita Ivoy issued on May 18, 2004, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 443, folio 443, ledger 54 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 6, folio 88).

[FN72] Cf. death certificate of Rufina Xitumul Iboy issued on October 19, 2001, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 222, folio 111, ledger 60 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 7, folio 89).

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49(10.6)      Patricia, Leticia, Lucrecia, Silvia and Felipe Antonio, all Álvarez Alvarado; Feliciana or Felisa Padilla, and Juan Álvarez Pérez

- i)      Patricia, Leticia, Lucrecia and Silvia were born on February 17, 1977, [FN73] October 24, 1978, [FN74] June 14, 1981, [FN75] and March 18, 1980, [FN76] respectively, and
  - ii)     Felipa Alvarado Padilla, [FN77] mother of Patricia, Leticia, Lucrecia, Silvia and Felipe Antonio, daughter of Feliciana or Felisa Padilla and wife of Juan Álvarez Pérez, died in the massacre.
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[FN73] Cf. birth certificate of Patricia Álvarez Alvarado issued on May 18, 2004, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 290, folio 145, ledger 90 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 6, folio 93).

[FN74] Cf. birth certificate of Leticia Álvarez Alvarado issued on May 13, 2004, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 322, folio 161, ledger 92 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 6, folio 94).

[FN75] Cf. birth certificate of Lucrecia Álvarez Alvarado issued on May 18, 2004, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 561, folio 281, ledger 95 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 6, folio 92).

[FN76] Cf. birth certificate of Silvia Álvarez Alvarado issued on November 4, 2004, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 25, folio 13, ledger 94 (file of helpful evidence provided by the victims' representatives, appendix 5, folio 741).

[FN77] Cf. birth certificate and death certificate of Felipa Alvarado Padilla issued on May 13, 2004, and on October 24, 2001, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 9, folios 8 and 9, ledger 68 and No. 242, folio 122, ledger 56, respectively (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 6 and 7, folios 91 and 95).

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49(10.7) Pablo and Pedro, both Grave Cajbón; Tomás and Domingo, both Cajbón Manuel, and Margarita Osorio Manuel

i) Pablo, Pedro, Tomás and Domingo were born on February 1, 1966, [FN78] September 9, 1964, [FN79] December 21, 1951, [FN80] and August 4, 1947, [FN81] respectively, and

ii) Balvina Cajbón Manuel [FN82], daughter of Margarita, mother of Pablo and Pedro and sister of Tomás and Domingo, died in the massacre; Angelina, [FN83] José Cruz, [FN84] María Dominga [FN85] and María Elena, [FN86] all Grave Cajbón, siblings of Pablo and Pedro, also died.

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[FN78] Cf. birth certificate of Pablo Grave Cabjón issued on May 13, 2004, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 319, folio 160, ledger 79 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 6, folio 108).

[FN79] Cf. birth certificate of Pedro Grave Cabjón issued on May 13, 2004, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No.122, folio 61, ledger 78 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 6, folio 106).

[FN80] Cf. birth certificate of Tomás Cabjón Manuel issued on May 13, 2004, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 601, folio 386, ledger 63 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 6, folio 115).

[FN81] Cf. birth certificate of Domingo Cabjón Manuel issued on May 13, 2004, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 437, folio 30, ledger 58 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 6, folio 116).

[FN82] Cf. birth certificate and death certificate of Balvina Cajbón Manuel issued on November 19, 2002, and on May 15, 1998, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 470, folios 388, ledger 50 and No. 961, folio

481, ledger 59, respectively (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendixes 6 and 7, folios 107 and 105).

[FN83] Cf. death certificate of Angelina Grave Cajbón issued on May 15, 1998, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 963, folio 482, ledger 59 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 7, folio 109).

[FN84] Cf. death certificate of José Cruz Grave Cajbón issued on May 15, 1998, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 964, folio 482, ledger 59 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 7, folio 110).

[FN85] Cf. death certificate of María Dominga Grave Cajbón issued on May 15, 1998, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 965, folio 483, ledger 59 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 7, folio 111).

[FN86] Cf. death certificate of María Elena Grave Cajbón issued on May 15, 1998, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 962, folio 481, ledger 59 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 7, folio 112).

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49(10.8)           Gregoria, Juana, Toribio, Felisa, Basilio and Julio, all Tecú Chajáj

i)       Gregoria, Juana, Toribio and Felisa were born on March 12, 1958, [FN87] March 28, 1972, [FN88] April 16, 1970, [FN89] and January 24, 1956, [FN90] respectively, and

ii)      Their parents, Mariana Chajáj Luis [FN91] and Francisco Tecú Manuel, [FN92] and their siblings, Benedicto, [FN93] Daniel [FN94] and Gabina, [FN95] all Tecú Chajáj, died in the massacre.

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[FN87] Cf. birth certificate of Gregoria Tecú Chajáj issued on May 13, 2004, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 937, folio 469, ledger 71 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 6, folio 117).

[FN88] Cf. birth certificate of Juana Tecú Chajáj issued on May 13, 2004, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 174, folio 87, ledger 85 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 6, folio 118).

[FN89] Cf. birth certificate of Toribio Tecú Chajáj issued on May 13, 2004, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 234, folio 117, ledger 83 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 6, folio 119).

[FN90] Cf. birth certificate of Felisa Tecú Chajáj issued on May 13, 2004, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 72, folio 36, ledger 70 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 6, folio 120).

[FN91] Cf. death certificate of Mariana Chajáj Luis issued on August 1, 2001, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 975, folio 488, ledger 59 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 7, folio 121).

[FN92] Cf. death certificate of Francisco Tecú Manuel issued on June 5, 1998, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 227, folio 114, ledger 59 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 7, folio 122).

[FN93] Cf. death certificate of Benedicto Tecú Chajáj issued on August 1, 2001, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 976, folio 488, ledger 59 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 7, folio 123).

[FN94] Cf. death certificate of Daniel Tecú Chajáj issued on June 8, 1998, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 230, folio 115, ledger 59 (file of appendixes to the final arguments brief of the representatives of the alleged victims and their next of kin, tome I, appendix 7, folio 124).

[FN95] Cf. birth certificate and death certificate of Gabina Tecú Chajáj issued on November 18, 2002, and on June 17, 1998, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 517, folio 482, ledger 66 and No. 15, folio 8, ledger 60, respectively (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendixes 6 and 7, folios 80 and 81). According to information remitted by the representatives, Gabina Tecú Chajáj is the daughter of Mariana Chajáj, as can be seen from her birth certificate.

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49(10.9) Alberto and Eugenia, both Morales Iboy

- i) Alberto and Eugenia were born on July 12, 1962, [FN96] and November 16, 1944, [FN97] respectively, and
- ii) Their parents, Demesia Iboy Acoj [FN98] and Martín Morales, [FN99] died in the massacre.

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[FN96] Cf. birth certificate of Alberto Morales Iboy issued on May 17, 2004, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 157, folio 79, ledger 76 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 6, folio 128).

[FN97] Cf. birth certificate of Eugenia Iboy issued on May 17, 2004, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 270, folio 270, ledger 54 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 6, folio 129).

[FN98] Cf. death certificate of Demesia Ivoy Acoj issued on July 31, 2001, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 50, folio 25, ledger 60 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 7, folio 130).

[FN99] Cf. death certificate of Martín Morales issued on July 31, 2001, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 49, folio 25, ledger 60 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 7, folio 131).

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49(10.10) Carlos Rafael, Hermenegildo and Salvador, all Jerónimo Sánchez

- i) Carlos Rafael, Hermenegildo and Salvador were born on April 16, 1957, [FN100] April 13, 1961, [FN101] and January 29, 1966, [FN102] respectively, and
- ii) Their parents, Narciso Jerónimo Grave [FN103] and María Dolores Sánchez Oxlaj, [FN104] and their siblings, Elvira, [FN105] Paulina [FN106] and Pedro, [FN107] all Jerónimo Sánchez, died in the massacre.

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[FN100] Cf. birth certificate of Carlos Rafael Jerónimo Sánchez issued on May 17, 2004, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 110, folio 55, ledger 71 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 6, folio 132).

[FN101] Cf. birth certificate of Hermenegildo Jerónimo Sánchez issued on May 17, 2004, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 149, folio 75, ledger 75 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 6, folio 133).

[FN102] Cf. birth certificate of Salvador Jerónimo Sánchez issued on May 17, 2004, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 341, folio 171, ledger 79 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 6, folio 134).

[FN103] Cf. death certificate of Narciso Jerónimo Grave issued on June 17, 1998, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 9, folio 5, ledger 60 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 7, folio 135).

[FN104] Cf. death certificate of María Dolores Sánchez Oxlaj issued on June 17, 1998, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 10, folio 5, ledger 60, (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 7, folio 136).

[FN105] Cf. death certificate of Elvira Jerónimo Sánchez issued on June 17, 1998, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 11, folio 6, ledger 60 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 7, folio 137).

[FN106] Cf. death certificate of Paulina Jerónimo Sánchez issued on June 17, 1998, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 13, folio 7, ledger 60 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 7, folio 138).

[FN107] Cf. death certificate of Pedro Jerónimo Sánchez issued on June 17, 1998, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A.,

No. 12, folio 6, ledger 60 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 7, folio 139).

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49(10.11) María Rogelia and Tomasa, both Jerónimo Corazón

- i) María Rogelia and Tomasa were born on January 14, 1976, [FN108] and December 21, 1962, [FN109] respectively, and
- ii) Their mother, María Corazón Tecú [FN110] and their siblings, Virgilio, [FN111] Jacinto, [FN112] Margarita [FN113] and Silvia, [FN114] all Jerónimo Corazón, died in the massacre.

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[FN108] Cf. birth certificate of María Rogelia Jerónimo Corazón issued on May 13, 2004, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 97, folio 49, ledger 89 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 6, folio 143).

[FN109] Cf. birth certificate of Tomasa Jerónimo Corazón issued on May 13, 2004, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 541, folio 271, ledger 76 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 6, folio 144).

[FN110] Cf. death certificate of María Corazón Tecú issued on August 1, 2001, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 979, folio 490, ledger 59 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 7, folio 145).

[FN111] Cf. death certificate of Virgilio Jerónimo Corazón issued on August 1, 2001, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 981, folio 491, ledger 59 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 7, folio 146).

[FN112] Cf. death certificate of Jacinto Jerónimo Corazón issued on August 1, 2001, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 983, folio 492, ledger 59 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 7, folio 147).

[FN113] Cf. death certificate of Margarita Jerónimo Corazón issued on August 1, 2001, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 982, folio 491, ledger 59 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 7, folio 148).

[FN114] Cf. death certificate of Silvia Jerónimo Corazón issued on August 1, 2001, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 980, folio 490, ledger 59 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 7, folio 149).

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49(10.12) Pablo, María, Josefina, Maribel, Mario and Cornelio, all García Pérez

- i) Pablo, María, Josefina, Maribel, Mario and Cornelio were born on January 25, 1972, [FN115] October 22, 1973, [FN116] March 20, 1977, [FN117] November 19, 1981, [FN118] December 12, 1969, [FN119] and September 16, 1979, [FN120] respectively, and
- ii) Their father, Daniel García García, [FN121] died in the massacre.

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[FN115] Cf. birth certificate of Pablo García Pérez issued on May 13, 2004, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 966, folio 483, ledger 84 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 6, folio 157).

[FN116] Cf. birth certificate of María García Pérez issued on May 17, 2004, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 746, folio 373, ledger 86 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 6, folio 158).

[FN117] Cf. birth certificate of Josefina García Pérez issued on May 17, 2004, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 336, folio 168, ledger 90 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 6, folio 159).

[FN118] Cf. birth certificate of Maribel García Pérez issued on May 17, 2004, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 38, folio 19, ledger 96 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 6, folio 160).

[FN119] Cf. birth certificate of Mario García Pérez issued on May 17, 2004, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 23, folio 12, ledger 82 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 6, folio 161).

[FN120] Cf. birth certificate of Cornelio García Pérez issued on May 17, 2004, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 371, folio 186, ledger 93 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 6, folio 162).

[FN121] Cf. birth certificate and death certificate of Daniel García García issued on November 19, 2002, and on February 14, 2001, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 125, folio 125, ledger 55 and No. 468, folio 234, ledger 60, respectively (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendixes 6 and 7, folios 164 and 163).

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49(10.13) María Hernández Galeano, Modesta Hernández and Jesús Hernández González

- i) María was born on August 5, 1969, [FN122] and
- ii) Pilar [FN123] and Roberto, [FN124] both Hernández Galeano, children of Jesús and siblings of María, died in the massacre. Pilar Hernández Galeano was Modesta's mother.

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[FN122] Cf. birth certificate of María Hernández Galeano issued on May 17, 2004, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A.,

No. 565, folio 283, ledger 82, (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 6, folio 172).

[FN123] Cf. birth certificate and death certificate of Pilar Hernández Galeano issued on November 19, 2002, and on February 14, 2001, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 380, folio 190, ledger 76 and No. 80, folio 40, ledger 60, respectively (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 6 and 7 folio 174 and 173).

[FN124] Cf. death certificate of Roberto Hernández Galeano issued on February 14, 2001, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 81, folio 41, ledger 60, (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 7, folio 175).

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49(10.14) Vicente, Miguel, Gumercindo and Eduvigis, all Orellana Morales

- i) Vicente, Miguel and Gumercindo were born on March 11 1969, [FN125] September 10, 1967, [FN126] and January 7, 1971, [FN127] respectively, and
- ii) Their mother, Venancia Morales Fernández, died in the massacre. [FN128]

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[FN125] Cf. birth certificate of Vicente Orellana Morales issued on May 17, 2004, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 232, folio 116, ledger 82 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 6, folio 182).

[FN126] Cf. birth certificate of Miguel Orellana Morales issued on May 17, 2004, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 881, folio 443, ledger 80 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 6, folio 183).

[FN127] Cf. birth certificate of Gumercindo Orellana Morales issued on May 17, 2004, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 961, folio 481, ledger 83 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 6, folio 184).

[FN128] Cf. death certificate of Venancia Morales Fernández issued on July 30, 2001, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 487, folio 224, ledger 60 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 7, folio 185).

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49(10.15) Margarita, Juan, César Augusto, Julián and María del Carmen, all Morales Pérez, and Inés Pérez García

- i) Margarita, Juan and César Augusto were born on February 18, 1970, [FN129] October 22, 1973, [FN130] and June 17, 1980, [FN131] respectively, and
- ii) Fidel Morales Xitumul [FN132], husband of Inés and father of Margarita, Juan, César Augusto, Julián and María del Carmen, and Ricarda Morales Pérez, [FN133] daughter of Inés and sister of Margarita, Juan, César Augusto, Julián and María del Carmen, died in the massacre.



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[FN129] Cf. birth certificate of Margarita Morales Pérez issued on May 18, 2004, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 14, folio 7, ledger 83 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 6, folio 186).

[FN130] Cf. birth certificate of Juan Morales Pérez issued on May 18, 2004, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 782, folio 391, ledger 86 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 6, folio 187).

[FN131] Cf. birth certificate of César Augusto Morales Pérez issued on May 18, 2004, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 398, folio 199, ledger 94 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 6, folio 188).

[FN132] Cf. death certificate of Fidel Morales Xitumul issued on July 30, 2001, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 419, folio 210, ledger 60 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 7, folio 189).

[FN133] Cf. death certificate of Ricarda Morales Pérez issued on June 5, 1998, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 218, folio 109, ledger 59 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 7, folio 190).

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49(10.16) Celestino, Sarvelio, Bernarda, Aura Marina, Raúl and Angélica, all Morales Pérez

- i) Celestino, Sarvelio, Bernarda, Aura Marina, Raúl and Angélica were born on May 19, 1958, [FN134] October 26, 1970, [FN135] November 9, 1960, [FN136] February 13, 1973, [FN137] October 18, 1975, [FN138] and October 1, 1977, [FN139] respectively, and
- ii) Their mother, Raquel Pérez García, died in the massacre. [FN140]

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[FN134] Cf. birth certificate of Celestino Morales Pérez issued on May 18, 2004, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 93, folio 94, ledger 72 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 6, folio 191).

[FN135] Cf. birth certificate of Sarvelio Morales Pérez issued on May 17, 2004, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 734, folio 367, ledger 83 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 6, folio 192).

[FN136] Cf. birth certificate of Bernarda Morales Pérez issued on May 18, 2004, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 759, folio 380, ledger 74 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 6, folio 193).

[FN137] Cf. birth certificate of Aura Marina Morales Pérez issued on May 18, 2004, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A.,

No. 106, folio 53, ledger 86 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 6, folio 194).

[FN138] Cf. birth certificate of Raúl Morales Pérez issued on May 18, 2004, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 879, folio 440, ledger 88 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 6, folio 195).

[FN139] Cf. birth certificate of Angélica Morales Pérez issued on May 18, 2004, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 190, folio 95, ledger 91 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 6, folio 196).

[FN140] Cf. death certificate of Raquel Pérez García issued on February 14, 2001, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 417, folio 209, ledger 60 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 7, folio 197).

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49(10.17) Daniel and María Herlinda, both Tecú Manuel, and María Marta Manuel Tecú

i) Daniel and María Herlinda were born on July 21, 1973, [FN141] and October 22, 1975, [FN142] respectively, and

ii) María Eduvigis [FN143] and Sara Leonora, [FN144] both Tecú Manuel, daughters of María Marta and sisters of Daniel and María Herlinda, died in the massacre.

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[FN141] Cf. birth certificate of Daniel Tecú Manuel issued on May 18, 2004, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 547, folio 274, ledger 86 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 6, folio 210).

[FN142] Cf. birth certificate of María Herlinda Tecú Manuel issued on May 18, 2004, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 889, folio 445, ledger 88 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 6, folio 211).

[FN143] Cf. birth certificate and death certificate of María Eduvigis Tecú Manuel issued on September 13, 2000 and on July 30, 2001, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 785, folio 393, ledger 82 and No. 112, folio 56, ledger 60, respectively (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendixes 6 and 7, folio 208 and 209).

[FN144] Cf. birth certificate and death certificate of Sara Leonora Tecú Manuel issued on September 19, 2000, and on July 30, 2001, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 762, folio 381, ledger 75 and No. 111, folio 56, ledger 60, respectively (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendixes 6 and 7, folios 206 and 207).

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49(10.18) Juan Grave Ramírez, Andrea Ramírez and Tomás Jerónimo Sánchez

- i) Juan was born on August 29, 1953, [FN145] and
- ii) Lucía [FN146] and María, [FN147] both Grave Ramírez, daughters of Andrea and sisters of Juan, died in the massacre. The next of kin of Tomás, who died in the massacre, were his wife, María Grave Ramírez, who he married on May 31, 1976, [FN148] and his daughter, Vicenta Jerónimo Grave. [FN149]

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[FN145] Cf. birth certificate of Juan Grave Ramírez issued on May 17, 2004, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 122, folios 113 and 114, ledger 66 (file of appendixes to the final arguments brief of the victims' representatives, tome II, appendix 6, folio 550).

[FN146] Cf. birth certificate and death certificate of Lucía Grave Ramírez issued on November 18, 2002, and on May 15, 1998, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 827, folio 414, ledger 74 and No. 978, folio 489, ledger 59, respectively (file of appendixes to the final arguments brief of the victims' representatives, tome II, appendixes 6 and 7, folios 545 and 546).

[FN147] Cf. birth certificate and death certificate of María Grave Ramírez issued on November 19, 2002, and on July 31, 2001, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 443, folio 222 ledger 71 and No. 67, folio 34, ledger 60, respectively (file of appendixes to the final arguments brief of the victims' representatives, tome II, appendixes 6 y7, folios 547 and 548).

[FN148] Cf. marriage certificate of Tomás Jerónimo Sánchez and María Grave Ramírez issued on May 18, 2004, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 458, folio 456, ledger 38 (file of appendixes to the final arguments brief of the victims' representatives, tome II, appendix 8, folio 549).

[FN149] Cf. birth certificate and death certificate of Vicenta Jerónimo Grave issued on September 13, 2000, and on July 31, 2001, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 352, folio 176, ledger 95 and No. 68, folio 34, ledger 60, respectively (file of appendixes to the final arguments brief of the victims' representatives, tome II, appendixes 6 and 7, folios 569 and 570).

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49(10.19) María Modesta Hernández Ic, Jacinto Ic Sesám and Antonia Manuel Sis

- i) María Modesta was born on November 4, 1981, [FN150] and
- ii) Florencia Ic Manuel, [FN151] daughter of Jacinto and Antonia, and mother of María Modesta, died in the massacre.

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[FN150] Cf. birth certificate of María Modesta Hernández Ic issued on May 18, 2004, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 996, folio 498, ledger 95 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 6, folio 127).

[FN151] Cf. birth certificate and death certificate of Florencia Ic Manuel issued on September 23, 2000, and on August 23, 2001, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 431, folio 432, ledger 72 and No. 182, folio

91, ledger 56, respectively (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendixes 6 and 7, folios 126 and 125).

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49(10.20) Francisco and Ricarda, both García López; Santos and Lauro, both García Morales, and Inocenta Morales López

- i) Francisco and Ricarda were born on September 17, 1959, [FN152] and April 3, 1964, [FN153] respectively, and Santos was born on November 7, 1979. [FN154]
- ii) Santos [FN155] and Timoteo, [FN156] both García López, brothers of Francisco and Ricarda, died in the massacre. Timoteo was also the husband of Inocenta Morales López and father of Lauro and Santos, both García Morales.

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[FN152] Cf. birth certificate of Francisco García López issued on May 18, 2004, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 713, folio 357, ledger 73 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 6, folio 169).

[FN153] Cf. birth certificate of Ricarda García López issued on May 18, 2004, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 773, folio 387, ledger 77 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 6, folio 168).

[FN154] Cf. birth certificate of Santos García Morales issued on November 4, 2004, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 552, folio 276, ledger 93 (file of helpful evidence provided by the victims' representatives, appendix 5, folio 742).

[FN155] Cf. death certificate of Santos García López issued on June 5, 1998, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 288, folio 144, ledger 59 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 7, folio 165).

[FN156] Cf. death certificate of Timoteo García López issued on June 5, 1998, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 231, folio 116, ledger 59 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 7, folio 166).

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49(10.21) Carmen Tejeda Orellana, Bairon Eduardo, Delvin Donald, Víctor Aníbal and María Elena, all Tejeda Reyes, and Fermina Reyes Reyes

- i) Carmen was born on July 16, 1943. [FN157]
  - ii) Víctor Tejeda Orellana, [FN158] husband of Fermina, brother of Carmen, and father of Bairon Eduardo, Delvin Donald, Víctor Aníbal and María Elena, and Mainor Yobani Tejeda Reyes, [FN159] son of Fermina and brother of the other survivors, died in the massacre.
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[FN157] Cf. birth certificate of Carmen Tejeda Orellana issued on November 4, 2004, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 460, folio 460, ledger 52 (file of helpful evidence provided by the victims' representatives, appendixes 5, folio 728).

[FN158] Cf. birth certificate and death certificate of Víctor Tejeda Orellana issued on November 19, 2002, and on January 29, 2002, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 167, folio 73, ledger 60 and No. 384, folio 192, ledger 61, respectively (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendixes 6 and 7, folios 215 and 214).

[FN159] Cf. birth certificate and death certificate of Mainor Yobany Tejeda Reyes, issued on November 19, 2002, and on January 29, 2002, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 56, folio 28, ledger 85 and No. 385, folio 193, ledger 61, respectively (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendixes 6 and 7, folios 217 and 216).

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49(10.22) Domingo, Lucía, Pedro, Rufino and Catalina, all Raxcacó Sesám, and Teresa Tecú

i) Domingo and Lucía were born on March 10, 1967, [FN160] and December 17, 1980, [FN161] respectively, and

ii) Jesús Sesám Tecú, [FN162] daughter of Teresa Tecú and mother of Domingo, Pedro, Rufino, Catalina and Lucía, and Francisco Raxcacó Tecú, [FN163] father of Domingo, Pedro, Rufino, Catalina and Lucía, died in the massacre.

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[FN160] Cf. birth certificate of Domingo Raxcacó Sesám issued on November 4, 2004, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 418, folio 210, ledger 80 (file of helpful evidence provided by the victims' representatives, appendix 5, folio 731).

[FN161] Cf. birth certificate of Lucía Raxcacó Sesám issued on May 18, 2004, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 953, folio 477, ledger 94 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 6, folio 204).

[FN162] Cf. death certificate of Jesús Sesám Tecú issued on June 5, 1998, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 226, folio 113, ledger 59 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 7, folio 203).

[FN163] Cf. death certificate of Francisco Raxcacó Tecú issued on June 5, 1998, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 224, folio 112, ledger 59 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 7, folio 224).

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49(10.23) María Cristina, César Augusto and Jorge Luis, all Reyes Álvarez; Juan, Juana and Jorge, all Álvarez Pérez, and Víctor Manuel Reyes García

- i) María Cristina, César Augusto, Jorge Luis and Juan were born on July 26, 1955, [FN164] May 22, 1961, [FN165] January 8, 1966, [FN166] and December 27, 1948, [FN167] respectively;
- ii) Elisa Álvarez Pérez [FN168] and Victoria Álvarez Pérez, [FN169] sisters of Juan, Juana and Jorge, died in the massacre. Elisa was also the wife of Víctor Manuel and mother of María Cristina, César Augusto and Jorge Luis.

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[FN164] Cf. birth certificate of María Cristina Reyes Álvarez issued on November 3, 2004, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 359, folios 329 and 330, ledger 68 (file of helpful evidence provided by the victims' representatives, appendix 5, folio 726).

[FN165] Cf. birth certificate of César Augusto Reyes Álvarez issued on November 4, 2004, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 231, folio 116, ledger 75 (file of helpful evidence provided by the victims' representatives, appendix 5, folio 743).

[FN166] Cf. birth certificate of Jorge Luis Reyes Álvarez issued on November 4, 2004, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 233, folio 117, ledger 79 (file of helpful evidence provided by the victims' representatives, appendix 5, folio 740).

[FN167] Cf. birth certificate of Juan Álvarez Pérez issued on November 4, 2004, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 3, folio 311, ledger 58 (file of helpful evidence provided by the victims' representatives, appendix 5, folios 738).

[FN168] Cf. death certificate of Elisa Álvarez Pérez issued on June 5, 1998, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 220, folio 110, ledger 59 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 7, folio 86).

[FN169] Cf. death certificate of Victoria Álvarez Pérez issued on April 18, 2002, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 217, folio 109, ledger 59 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 7, folio 85).

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49(10.24) Víctor, Jerónimo, María Concepción, and Dolores, all Morales Alvarado, José León Alvarado and Nicolasa Ixtecoc

- i) Víctor, Jerónimo and María Concepción were born on February 26, 1976, [FN170] October 3, 1980, [FN171] and December 8, 1970, [FN172] respectively, and
- ii) Agustina Alvarado Ixtecoc, [FN173] daughter of Nicolasa Ixtecoc and mother of Víctor, Jerónimo, María Concepción, Dolores and José León, and Bonifacio Morales Corazón, [FN174] father of Víctor, Dolores, Jerónimo, and María Concepción, died in the massacre.

[FN170] Cf. birth certificate of Víctor Morales Alvarado issued on November 5, 2004, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 240, folio 120, ledger 89 (file of helpful evidence provided by the victims' representatives, appendix 5, folio 744).

[FN171] Cf. birth certificate of Jerónimo Morales Alvarado issued on November 5, 2004, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 711, folio 356, ledger 94 (file of helpful evidence provided by the victims' representatives, appendix 5, folio 724).

[FN172] Cf. birth certificate of María Concepción Morales Alvarado issued on November 4, 2004, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 808, folio 404, ledger 83 (file of helpful evidence provided by the victims' representatives, appendix 5, folio 733).

[FN173] Cf. death certificate of Agustina Alvarado Ixtecoc issued on February 14, 2001, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 70, folio 35, ledger 60 (file of appendixes to the final arguments brief of the victims' representatives, appendix 7, folio 573).

[FN174] Cf. death certificate of Bonifacio Morales Corazón issued on February 14, 2001, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 69, folio 35, ledger 60 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 7, folio 181).

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49(10.25) José, María, Pedrina, Alberto, Francisco, Juana and María Juliana, all Morales Juárez

- i) José, María and Pedrina were born on May 1, 1967, [FN175] October 31, 1974, [FN176] and October 19, 1970, [FN177] respectively, and
- ii) Their mother, Felicita Juárez, [FN178] died in the massacre.

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[FN175] Cf. birth certificate of José Morales Juárez issued on May 18, 2004, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 511, folio 258, ledger 80 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 6, folio 140).

[FN176] Cf. birth certificate of María Morales Juárez issued on May 17, 2004, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 825, folio 413, ledger 87 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 6, folio 141).

[FN177] Cf. birth certificate of Pedrina Morales Juárez issued on November 4, 2004, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 690, folio 345, ledger 83 (file of helpful evidence provided by the victims' representatives, appendix 5, folio 735).

[FN178] Cf. death certificate of Felícita Juárez issued on July 30, 2001, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 92, folio 46, ledger 60 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 7, folio 142).

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49(10.26) Gregoria, Ceferino, Rosa, Juana, Pablo and Roberto, all Jerónimo Ixpatá

- i) Gregoria was born on May 9, 1957, [FN179] and
- ii) Her mother, Josefa Ixpatá, [FN180] and her siblings, Felix [FN181] and Maximiliana, [FN182] both Jerónimo Ixpatá, died in the massacre.

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[FN179] Cf. birth certificate of Gregoria Jerónimo Ixpatá issued on November 4, 2004, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 163, folio 82, ledger 71 (file of helpful evidence provided by the victims' representatives, appendix 5, folio 737).

[FN180] Cf. death certificate of Josefa Ixpatá issued on October 19, 2001, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 106, folio 53, ledger 60 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 7, folio 176).

[FN181] Cf. death certificate of Félix Jerónimo Ixpatá issued on July 30, 2001, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 107, folio 54, ledger 60 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 7, folio 177).

[FN182] Cf. death certificate of Maximiliana Jerónimo Ixpatá issued on July 30, 2001, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 108, folio 54, ledger 60 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 7, folio 178).

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49(10.27) Darío, Emiliana, Julia, Regina and Roberta, all López Juárez

- i) Darío, Emiliana and Julia were born on December 19, 1955, [FN183] January 5, 1954, [FN184] December 5, 1938, [FN185] respectively, and
- ii) Their parents, Susana Juárez [FN186] and Juan Buenaventura López, [FN187] died in the massacre.

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[FN183] Cf. birth certificate of Darío López Juárez issued on November 5, 2004, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 147, folio 153, ledger 69 (file of helpful evidence provided by the victims' representatives, appendix 5, folio 725).

[FN184] Cf. birth certificate of Emiliana López Juárez issued on November 5, 2004, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 410, folios 379 and 380, ledger 66 (file of helpful evidence provided by the victims' representatives, appendix 5, folio 727).

[FN185] Cf. birth certificate of Julia López Juárez issued on November 4, 2004, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 214,



folio 175, ledger 48 (file of helpful evidence provided by the victims' representatives, appendix 5, folio 736).

[FN186] Cf. death certificate of Susana Juárez issued on July 30, 2001, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 100, folio 50, ledger 60 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 7, folio 179).

[FN187] Cf. death certificate of Juan Buenaventura López issued on June 5, 1998, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 225, folio 113, del ledger 59 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 7, folio 180).

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49(10.28) Toribio, Eustaquio and Bernardino, all Morales Jerónimo

- i) Toribio was born on April 16, 1954, [FN188] and
  - ii) His father, Bonifacio Morales Corazón, [FN189] died in the massacre.
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[FN188] Cf. birth certificate of Toribio Morales Jerónimo issued on November 4, 2004, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 119, folio 77, ledger 67 (file of helpful evidence provided by the victims' representatives, appendix 5, folio 729).

[FN189] Cf. death certificate of Bonifacio Morales Corazón issued on February 14, 2001, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 69, folio 35, ledger 60 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 7, folio 181).

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49(10.29) María Griselda, Álvaro Rocael, Pedrina, Hermelinda, Rogelia and Jesús, all Reyes Mejicanos

- i) María Griselda and Álvaro Rocael were born on April 28, 1968, [FN190] and November 24, 1970, [FN191] respectively, and
  - ii) Their father, Eduardo Reyes Guzmán, [FN192] and their brother, Arnulfo Reyes Mejicanos, [FN193] died in the massacre.
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[FN190] Cf. birth certificate of María Griselda Reyes Mejicanos issued on November 4, 2004, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 382, folio 251, ledger 81 (file of helpful evidence provided by the victims' representatives, appendix 5, folio 730).

[FN191] Cf. birth certificate of Álvaro Rocael Reyes Mejicanos issued on November 4, 2004, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 772, folio 386, ledger 83 (file of helpful evidence provided by the victims' representatives, appendix 5, folio 734).

[FN192] Cf. death certificate of Eduardo Reyes Guzmán issued on February 14, 2001, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 480, folio 240, ledger 60 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 7, folio 200).

[FN193] Cf. birth certificate and death certificate of Arnulfo Reyes Mejicanos issued on June 29, 2000, and on July 30, 2001, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 74, folio 37, ledger 78 and No. 479, folio 240, ledger 60, respectively (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendixes 6 and 7, folios 202 and 201).

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49(10.30) Lorenza, José María and Emilia or Emiliana, all Cajbón Grave

i) Their siblings, Rodrigo, [FN194] Carmela [FN196] and Ismelda, [FN196] all Cajbón Grave, died in the massacre.

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[FN194] Cf. death certificate of Rodrigo Cajbón Grave issued on June 5, 1998, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 214, folio 107, ledger 59 (file of appendixes to the final arguments brief of the victims' representatives, tome II, appendix 7, folio 540).

[FN195] Cf. death certificate of Carmela Cajbón Grave issued on June 5, 1998, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 213, folio 107, ledger 59 (file of appendixes to the final arguments brief of the victims' representatives, tome II, appendix 7, folio 541).

[FN196] Cf. birth certificate of Ismelda Cajbón Grave, issued on November 19, 2002, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 212, folio 106, ledger 76 (file of appendixes to the final arguments brief of the victims' representatives, tome II, appendix 6, folio 542).

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49(10.31) Alejandro Grave Oxlej and Francisca Juárez Manuel

i) Their daughter, Felisa Grave Juárez, [FN197] died in the massacre.

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[FN197] Cf. birth certificate and death certificate of Felisa Grave Juárez issued on November 18, 2002, and on May 15, 1998, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 833, folio 417, ledger 73 and No. 966, folio 483, ledger 59, respectively (file of appendixes to the final arguments brief of the victims' representatives, tome II, appendixes 6 and 7, folios 543 and 544).

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49(10.32) Juliana Rojas

i) Her daughter, María Dolores Ic Rojas, [FN198] died in the massacre.

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[FN198] Cf. birth certificate and death certificate of María Dolores Ic Rojas issued on May 17, 2004, and June 5, 1998, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 245, folio 123, ledger 77 and No. 210, folio 105, ledger 59, respectively (file of appendixes to the final arguments brief of the representatives of the alleged victims and their next of kin, tome II, appendix G-14, folios 567 and 568).

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49(10.33) Adrián Cajbón Jerónimo

i) His daughter, Juana Cajbón Morales, [FN199] died in the massacre.

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[FN199] Cf. death certificate of Juana Cajbón Morales issued on June 17, 1998, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 25, folio 13, ledger 60, (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 7, folio 82).

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49(10.34) Emiliana Grave

i) Her son, Santiago Morales, [FN200] died in the massacre.

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[FN200] Cf. death certificate of Santiago Morales issued on July 31, 2001, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 37, folio 19, ledger 60, (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 7, folio 87). According to information remitted by the representatives Santiago Morales is the son of Emiliana Grave, even though this relationship is not confirmed on his death certificate.

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49(10.35) Eugenia Ivoy

i) Her daughters, Bernabela [FN201] and Martina, [FN202] both Morales Ivoy, died in the massacre.

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[FN201] Cf. birth certificate and death certificate of Bernabela Morales Ivoy issued on September 14, 2000 and on July 31, 2001, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 373, folio 187, ledger 74 and No. 51, folio 26, ledger 60, respectively (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendixes 6, and 7, folios 223 and 222).

[FN202] Cf. death certificate of Martina Morales Iboy issued on October 23, 2001, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A.,

No. 221, folio 111, ledger 56, (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 7, folio 221).

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49(10.36) Alejandro Grave

i) His daughter, Felisa Juárez Manuel, died in the massacre.

49(10.37) Lázaro or Pedro Alvarado Manuel and Julia Manuel

i) Their son, Héctor Rolando Alvarado Manuel, [FN203] died in the massacre.

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[FN203] Cf. death certificate of Héctor Rolando Alvarado Manuel issued on October 24, 2001, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 197, folio 99, ledger 56 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 7, folio 90). In appendix 3 submitted by the representatives the name of Lázaro Alvarado Manuel appears as surviving victim and father of Héctor Rolando Alvarado Manuel. However, on the death certificate of Héctor Rolando Alvarado Manuel, Pedro Alvarado Manuel is named as his father.

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49(10.38) Julia Raxcacó Manuel

i) Her children, Antonia, [FN204] Jaime, [FN205] Mario [FN206] and Nolverto, [FN207] all Alvarado Raxcacó, died in the massacre.

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[FN204] Cf. death certificate of Antonia Alvarado Raxcacó issued on October 25, 2001, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 352, folio 176, ledger 61 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 7, folio 96).

[FN205] Cf. death certificate of Jaime Alvarado Raxcacó issued on October 25, 2001, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 353, folio 177, ledger 61 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 7, folio 97).

[FN206] Cf. death certificate of Mario Alvarado Raxcacó issued on October 25, 2001, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 354, folio 177, ledger 61 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 7, folio 98).

[FN207] Cf. death certificate of Nolverto Alvarado Raxcacó issued on October 25, 2001, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, No. 355, folio 178, ledger 61 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 7, folio 99).

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49(10.39) Balbino Cajbón Cortéz and Paulina Grave Oxlaj

- i) Their daughter, Juana Cajbón Grave, [FN208] died in the massacre.

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[FN208] Cf. birth certificate and death certificate of Juana Cajbón Grave issued on May 13, 2004, and on July 31, 2001, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 728, folio 366, ledger 90 and No. 29, folio 15, ledger 60, respectively (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendixes 6, and 7, folios 104 and 103).

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49(10.40) Emiliana Grave López

- i) Her son, Ciriaco Juárez Grave, [FN209] died in the massacre.

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[FN209] Cf. death certificate of Ciriaco Juárez Grave issued on July 31, 2001, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 36, folio 18, ledger 60 (file of appendixes to the final arguments brief of the victims' representatives, appendix 7, folio 574).

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49(10.41) Ángela Juárez Chen

- i) Her brother, Higinio Juárez Chen, [FN210] died in the massacre.

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[FN210] Cf. death certificate of Higinio Juárez Chen issued on October 24, 2001, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 356, folio 178, ledger 61 (file of appendixes to the final arguments brief of the victims' representatives, appendix 7, folio 575).

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49(10.42) Francisco Cortéz Xitumul and Juliana Tecú Grave

- i) Their daughter, Victoria Cortéz Tecú, [FN211] died in the massacre.

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[FN211] Cf. birth certificate and death certificate of Victoria Cortéz Tecú issued on November 18, 2002, and on June 5, 1998, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 862, folio 431, ledger 74 and No. 229, folio 115, ledger 59, respectively (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendixes 6 and 7, folios 151 and 150).

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49(10.43) Juan and Rosario, ambos Galeano

- i) Their daughter, Fabiana Galeano, [FN212] died in the massacre.

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[FN212] Cf. death certificate of Fabiana Galeano issued on October 24, 2001, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 216, folio 108, ledger 56 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 7, folio 152).  
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49(10.44) Julia or Juliana Juárez

- i) Her daughter, Marcela Raxcacó Juárez, [FN213] died in the massacre.

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[FN213] Cf. birth certificate and death certificate of Marcela Raxcacó Juárez issued on November 19, 2002, and on February 14, 2001, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 493, folio 318, ledger 67 and No. 485, folio 243, ledger 60, respectively (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendixes 6 and 7, folios 198 and 199).  
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49(10.45) Francisca Galeano Galeano

- i) Her mother, Juliana Galeano González, [FN214] and her sister, María Galeano Galeano, [FN215] died in the massacre.

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[FN214] Cf. death certificate of Juliana Galeano González issued on June 5, 1998, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 223, folio 112, ledger 59 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 7, folio 84).

[FN215] Cf. death certificate of María Galeano Galeano issued on June 5, 1998, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 222, folio 111, ledger 59 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 7, folio 83).  
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49(10.46) Simeona Corazón Galeano and Manuel Amperez Corazón

- i) Juana Amperez Corazón, [FN216] daughter of Simeona and sister of Manuel, and Evaristo Amperez Tecú, [FN217] father of Manuel, died in the massacre.

[FN216] Cf. death certificate of Juana Amperez Corazón issued on October 25, 2001, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 345 folio 173, ledger 61 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 7, folio 100).

[FN217] Cf. death certificate of Evaristo Amperez Tecú, issued on October 25, 2001, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 344, folio 172, ledger 61 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 7, folio 101).

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49(10.47) Albino Cajbón

- i) His father, Dionisio Cajbón Galeano, [FN218] died in the massacre.

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[FN218] Cf. death certificate of Dionisio Cajbón Galeano issued on January 29, 2002, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 379, folio 190, ledger 61 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 7, folio 102).

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49(10.48) Catalina Galeano

- i) Her daughter, Francisca Galeano Galeano, [FN219] died in the massacre.

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[FN219] Cf. birth certificate and death certificate of Francisca Galeano Galeano issued on November 4, 2004, and on July 30, 2001, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 130, folio 65, ledger 81 and No. 96, folio 48, ledger 60, respectively (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 7, folio 153 and helpful evidence provided by the victims' representatives, appendix 6, folio 732).

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49(10.49) Marta Galeano

- i) Her sister, Narcisa Galeano López, [FN220] died in the massacre.

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[FN220] Cf. birth certificate and death certificate of Narcisa Galeano López issued on November 19, 2002, and on January 29, 2002, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 576, folio 365, ledger 67 and No. 380, folio 190, ledger 61, respectively (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendixes 6 and 7, folios 155 and 154).

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49(10.50) Celestino, Benedicto, Florentino, Hermelinda, Pedrina and Rufino, all Morales García, and Francisca Caballeros

- i) Gumercinda García Caballeros, [FN221] daughter of Francisca Caballeros and mother of Celestino, Benedicto, Florentino, Hermelinda, Pedrina and Rufino, died in the massacre.

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[FN221] Cf. death certificate of Gumercinda García Caballeros issued on July 30, 2001, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 115, folio 58, ledger 60 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 7, folio 156).  
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49(10.51) Hilario and Silvestre, both Galeano

- i) Their father, Genaro Galeano Rojas, [FN222] died in the massacre.

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[FN222] Cf. death certificate of Genaro Galeano Rojas issued on April 18, 2002, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 95, folio 48, ledger 60 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 7, folio 170).  
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49(10.52) Bernardo, Victoria and Paulina, all Tecú González

- i) Their mother, Mercedes González, [FN223] died in the massacre.

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[FN223] Cf. death certificate of Mercedes González issued on July 31, 2001, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 59, folio 30, ledger 60 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 7, folio 171).  
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49(10.53) Pablo Guzmán Reyes, María de Jesús Alvarado and Paulina Guzmán

- i) Benjamín Orlando Guzmán Alvarado, [FN224] son of Pablo and María de Jesús and brother de Paulina, died in the massacre; and also, Magdaleno Chinchilla Guzmán, [FN225] husband of Paulina.

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[FN224] Cf. death certificate of Benjamín Orlando Guzmán Alvarado issued on June 5, 1998, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 215, folio 108, ledger 59 (file of appendixes to the final arguments brief of the victims' representatives, appendix 7, folio 576).  
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[FN225] Cf. death certificate of Magdalena Chinchilla Guzmán issued on June 5, 1998, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala, C.A., No. 232, folio 116, ledger 59 (file of appendixes to the final arguments brief of the victims' representatives, appendix 7, folio 577).

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49(10.54) Pedrina, Demetrio, Pedro, Isabel, Martina, Carmelina, Zoila, Sebelia and Rodolfo, all Soto Martínez, Zuleta Soto Tejeda and Maruca Martínez García

i) Eustaquio Soto Tejeda, [FN226] son of Zuleta, husband of Maruca and father of Pedrina, Demetrio, Pedro, Isabel, Martina, Carmelina, Zoila, Sebelia and Rodolfo, died in the massacre.

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[FN226] Cf. death certificate of Eustaquio Soto Tejeda issued on May 7, 2002, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 244, folio 123, ledger 56 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 7, folio 205).

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49(10.55) Ana María Tecú Morales, Ricardo Tecú Manuel and Natividad Morales

i) Apolonio Tecú Morales, [FN227] son of Ricardo and Natividad and brother of Ana María, died in the massacre.

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[FN227] Cf. death certificate of Apolonio Tecú Morales issued on July 30, 2001, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 99, folio 50, ledger 60 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 7, folio 212).

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49(10.56) Irena, Odilia, Telma and Daniel, all Tejeda Orellana, Eulalio Tejeda, Sabina Tejeda and Mercedes Orellana García

i) Virgilio Tejeda, [FN228] son of Sabina, husband of Mercedes and father of Irena, Odilia, Telma, Daniel and Eulalio, died in the massacre.

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[FN228] Cf. death certificate of Virgilio Tejeda issued on September 6, 2001, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 283, folio 142, ledger 61 (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendix 7, folio 213).

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49(10.57) Héctor Manuel García Mejicanos

i) Héctor Manuel was born on August 24, 1966. [FN229]

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[FN229] Cf. birth certificate of Héctor Manuel García Mejicanos issued on November 4, 2004, by the Registry Office of the Municipality of Rabinal, Department of Baja Verapaz, Guatemala C.A., No. 931, folio 466, ledger 79 (file of helpful evidence provided by the victims' representatives, appendix 5, folio 739).

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49(10.58) Guadalupe Cajbón Jerónimo

i) Guadalupe was born on December 12, 1968. [FN230]

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[FN230] Cf. identity card of Guadalupe Cajbón Jerónimo issued by the Mayor of Rabinal, Department of Baja Verapaz, Guatemala, Order No. Ñ-15, Registry No. 33,350 (helpful evidence provided by the victims' representatives, appendix 6, folios 748 and 749).

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49(10.59) Luis Cajbón Oxlaj

i) Luis was born on August 19, 1954. [FN231]

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[FN231] Cf. identity card of Luis Cajbón Oxlaj issued by the Mayor of Rabinal, Department of Baja Verapaz, Guatemala, Order No. Ñ-15, Registry No. 23,475 (helpful evidence provided by the victims' representatives, appendix 6, folios 750 and 751).

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49(10.60) Prudencia Cajbón Jerónimo

i) Prudencia was born on April 28, 1953. [FN232]

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[FN232] Cf. identity card of Prudencia Cajbón Jerónimo issued by the Mayor of Rabinal, Department of Baja Verapaz, Guatemala, Order No. Ñ-15, Registry No. 24,616 (helpful evidence provided by the victims' representatives, appendix 6, folios 752 and 753).

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49(10.61) Juan Cajbón Corazón

i) Juan was born on August 26, 1932. [FN233]

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[FN233] Cf. identity card of Juan Cajbón Corazón issued by the Mayor of Rabinal, Department of Baja Verapaz, Guatemala, Order No. Ñ-15, Registry No. 12,997 (helpful evidence provided by the victims' representatives, appendix 6, folios 746 and 747).

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49(10.62) Ezequiel Grave Oxlaj

i) Ezequiel was born on May 8, 1942. [FN234]

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[FN234] Cf. identity card of Ezequiel Grave Oxlaj issued by the Mayor of Rabinal, Department of Baja Verapaz, Guatemala, Order No. Ñ-15, Registry No. 15,809 (helpful evidence provided by the victims' representatives, appendix 6, folios 755 and 756).

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49(10.63) Andrés Grave Valey

i) Andrés was born on November 30, 1969. [FN235]

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[FN235] Cf. identity card of Andrés Grave Valey issued by the Mayor of Rabinal, Department of Baja Verapaz, Guatemala, Order No. Ñ-15, Registry No. 33,899 (helpful evidence provided by the victims' representatives, appendix 6, folio 757 and 758).

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49(10.64) Faustina Cojóm Manuel

i) Faustina was born on February 22, 1962. [FN236]

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[FN236] Cf. identity card of Faustina Cojóm Manuel issued by the Mayor of Rabinal, Department of Baja Verapaz, Guatemala, Order No. Ñ-15, Registry No. 30,181 (helpful evidence provided by the victims' representatives, appendix 7, folios 760 and 761).

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- 49(10.65) Enrique Cajbón Jerónimo.
- 49(10.66) Salvador Manuel Jerónimo.
- 49(10.67) Pablo Grave Jerónimo.
- 49(10.68) Florencia Cajbón Jerónimo.
- 49(10.69) Hermenegildo Alvarado Raxcacó.
- 49(10.70) Lucas Juárez Ampérez.
- 49(10.71) Valeria Grave Cajbón.
- 49(10.72) Emiliano Cajbón Grave.
- 49(10.73) Jesús Cajbón Grave.
- 49(10.74) Santa Cajbón Manuel.
- 49(10.75) Bartolomé Cajbón Manuel.

- 49(10.76) Petronila Tecú Chajáj.
- 49(10.77) Celestino Chinchilla Guzmán.
- 49(10.78) María Aurelia Jerónimo Corazón.
- 49(10.79) Juan Cajbón.
- 49(10.80) Alejandro Cortéz Tecú.
- 49(10.81) Florencia Cortéz Tecú.
- 49(10.82) Cristina Cortéz Tecú.
- 49(10.83) Fidel Cortéz Tecú.
- 49(10.84) Efraín Cortéz Tecú.
- 49(10.85) Juana Cortéz Tecú.
- 49(10.86) Natividad Cortéz Tecú.
- 49(10.87) Justina Sánchez.
- 49(10.88) Justina Sánchez.
- 49(10.89) Demetrio Cajbón Galeano.
- 49(10.90) Francisco Rojas Ic.
- 49(10.91) Ramón Rojas Ic.
- 49(10.92) Ramón Rojas.
- 49(10.93) Humberto Rojas.
- 49(10.94) Humberto Rojas.
- 49(10.95) Domingo Ic Rojas.
- 49(10.96) Domingo Ic Rojas.
- 49(10.97) Leocadia Rojas.
- 49(10.98) Leocadia Ic Rojas.
- 49(10.99) Salomé Ic Rojas.
- 49(10.100) Salomé Rojas.
- 49(10.101) Virgilio Ic Rojas.
- 49(10.102) Virgilio Rojas.
- 49(10.103) Carlos Enrique Caballeros.
- 49(10.104) Froilán García Caballeros.
- 49(10.105) Domingo García Caballeros.
- 49(10.106) María García Caballeros.
- 49(10.107) Jesús Grave Tecú.
- 49(10.108) Valentina Grave Tecú.
- 49(10.109) Héctor Guzmán Alvarado.
- 49(10.110) Paulina Guzmán Alvarado.
- 49(10.111) Felipe Hernández Galeano.
- 49(10.112) Juana Hernández Galeano.
- 49(10.113) Ventura Hernández Galeano.
- 49(10.114) Elías Hernández Galeano.
- 49(10.115) Jerónimo Jerónimo Ixpatá.
- 49(10.116) Natividad Raxcacó Juárez.
- 49(10.117) Cecilio Raxcacó Juárez.
- 49(10.118) David Raxcacó Juárez.
- 49(10.119) Jesusa Raxcacó Juárez.
- 49(10.120) Pedro Raxcacó Juárez.
- 49(10.121) Rosa Raxcacó Juárez.

- 49(10.122) Rosa Raxcacó Juárez.
- 49(10.123) María Juárez Manuel.
- 49(10.124) Corazón Manuel Ampérez.
- 49(10.125) Abelino Juárez Grave.
- 49(10.126) Faustina Juárez Grave.
- 49(10.127) Juana Juárez Grave.
- 49(10.128) Juana Juárez Grave.
- 49(10.129) Leoncio Juárez Grave.
- 49(10.130) María Juárez Grave.
- 49(10.131) Paula Juárez Grave.
- 49(10.132) Julián Morales Jerónimo.
- 49(10.133) Pedro Morales Corazón.
- 49(10.134) Chabelo Morales Ivoy.
- 49(10.135) Miguel Ángel Morales Ivoy.
- 49(10.136) Viviana Morales Ivoy.
- 49(10.137) Andrés Morales Ivoy.
- 49(10.138) Bernardo Morales Ivoy.
- 49(10.139) Emiliana Morales Ivoy.
- 49(10.140) Natividad Morales Ivoy.
- 49(10.141) Santos Morales Ivoy.
- 49(10.142) Pedrina Morales Xitumul.
- 49(10.143) José Bolaj Jerónimo.
- 49(10.144) Carlos Morales Pérez.
- 49(10.145) Antonio Pérez García.
- 49(10.146) Miguel Pérez García.
- 49(10.147) Enrique Sesám Tecú.
- 49(10.148) Pedro Sesám Tecú.
- 49(10.149) Serapio Sesám Tecú.
- 49(10.150) Dionisio Sesám Tecú.
- 49(10.151) Eustaquia Sesám Tecú.
- 49(10.152) Albertina Sesám Tecú.
- 49(10.153) Silveria Sesám Tecú.
- 49(10.154) Demetria Soto Tejeda.
- 49(10.155) Cipriano Soto Tejeda.
- 49(10.156) Irene Soto Tejeda.
- 49(10.157) Hilario Soto Tejeda.
- 49(10.158) Macario Soto Tejeda.
- 49(10.159) Cecilio Soto Tejeda.
- 49(10.160) Margarito Soto Tejeda.
- 49(10.161) Sabino Soto Tejeda.
- 49(10.162) Julián Tecú Chajáj.
- 49(10.163) Cecilio Tecú Chajáj.
- 49(10.164) Lorenza Tecú Chajáj.
- 49(10.165) Pedro Tecú Manuel.
- 49(10.166) Bartolomé Tecú Manuel.
- 49(10.167) Carlota Tecú Manuel.

- 49(10.168) Victoria Tecú Manuel.
- 49(10.169) María Antonia Tecú Morales.
- 49(10.170) Paulina Tecú Morales.
- 49(10.171) Gregorio Tejeda Orellana.
- 49(10.172) Bartolo Tejeda Orellana.
- 49(10.173) Isabel Tejeda Orellana.
- 49(10.174) Hilaria Tejeda Orellana.
- 49(10.175) Everildo Tejeda.
- 49(10.176) Antonio Tejeda.
- 49(10.177) Lázaro Alvarado Raxcacó.
- 49(10.178) Plácido Jerónimo Grave.
- 49(10.179) Guillermo Toj Manuel.
- 49(10.180) Herlinda Morales Ivoy.

Regarding the pecuniary and non-pecuniary damages caused to the victims

49(11) Their agricultural and other employment activities were affected, and this caused them pecuniary damage. [FN237]

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[FN237] Cf. statement made before notary public by Benjamín Manuel Jerónimo on March 9, 2004, (file on preliminary objections and merits and reparations, tome III, folios 470 to 488); statement made before notary public by Eulalio Grave Ramírez on March 9, 2004, (file on preliminary objections and merits and reparations, tome III, folios 489 to 502); testimony of Buenaventura Manuel Jerónimo given before the Inter-American Court during the public hearing held on April 23, 2004; testimony of Juan Manuel Jerónimo given before the Inter-American Court during the public hearing held on April 23, 2004, and testimony of Narcisa Corazón Jerónimo given before the Inter-American Court during the public hearing held on April 23, 2004.  
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49(12) With the death of the women and elders, oral transmitters of the Maya-Achí culture, their knowledge could not be transmitted to the new generations and, today, this has produced a cultural vacuum. The orphans did not receive the traditional education handed down from their ancestors. In turn, the militarization and repression to which the survivors of the massacre were subjected, particularly the young men, has caused them to lose their faith in the traditions and knowledge of their forefathers. [FN238]

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[FN238] Cf. statement made before notary public by Benjamín Manuel Jerónimo on March 9, 2004, (file on preliminary objections and merits and reparations, tome III, folios 470 to 488); statement made before notary public by Eulalio Grave Ramírez on March 9, 2004, (file on preliminary objections and merits and reparations, tome III, folios 489 to 502); testimony of Narcisa Corazón Jerónimo given before the Inter-American Court during the public hearing held on April 23, 2004; report of Augusto Willemsen-Díaz given before the Inter-American Court during the public hearing held on April 23, 2004; report of Nieves Gómez Dupuis given before

the Inter-American Court during the public hearing held on April 24, 2004, and report of the Historical Clarification Commission, "Guatemala, memoria del silencio," of June 1999, tome III, pages 181, 186 and 187, paras. 2887, 2888, 2901(d) and (e), and 2938.

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49(13) The victims could not freely perform the ceremonies and rites of their Mayan culture, because the military authorities controlled all their activities. [FN239]

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[FN239] Cf. statement made before notary public by Benjamín Manuel Jerónimo on March 9, 2004, (file on preliminary objections and merits and reparations, tome III, folios 470 to 488); statement made before notary public by Eulalio Grave Ramírez on March 9, 2004, (file on preliminary objections and merits and reparations, tome III, folios 489 to 502); testimony of Juan Manuel Jerónimo given before the Inter-American Court during the public hearing held on April 23, 2004; report of Augusto Willemssen-Díaz given before the Inter-American Court during the public hearing held on April 23, 2004, and CEH report, supra note 238, tome III, pages. 206 and 203, paras. 2937 and 2943.

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49(14) The victims were unable to celebrate the leave-taking ritual for their next of kin who had been executed in the massacre in accordance with their customs. The absence of these funeral rites caused considerable anguish to the next of kin and the members of the community, and hindered the mourning process. In 1994, when the first exhumation was conducted, the victims could bury some of the remains, in accordance with their religious customs. [FN240]

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[FN240] Cf. statement made before notary public by Benjamín Manuel Jerónimo on March 9, 2004, (file on preliminary objections and merits and reparations, tome III, folios 470 to 488); statement made before notary public by Eulalio Grave Ramírez on March 9, 2004, (file on preliminary objections and merits and reparations, tome III, folios 489 to 502); statement made before notary public by José Fernando Moscoso Möller on March 10, 2004, (file on preliminary objections and merits and reparations, tome III, folios 511 to 518); testimony of Juan Manuel Jerónimo given before the Inter-American Court during the public hearing held on April 23, 2004; testimony of Buenaventura Manuel Jerónimo given before the Inter-American Court during the public hearing held on April 23, 2004; testimony of Narcisa Corazón Jerónimo given before the Inter-American Court during the public hearing held on April 23, 2004; report of Augusto Willemssen-Díaz given before the Inter-American Court during the public hearing held on April 23, 2004, and report of Nieves Gómez Dupuis given before the Inter-American Court during the public hearing held on April 24, 2004.

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49(15) The military presence and continuous surveillance, repression and threats caused feelings of terror, paralysis and impotence among the survivors of the massacre. The victims were forced to live alongside the perpetrators in the PAC and in the common areas in the town of Rabinal. In turn, they were stigmatized and accused of perpetrating the events, so they lived in a permanent

state of silence. These consequences have lasted until today, at both the individual and the community level. [FN241]

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[FN241] Cf. statement made before notary public by Benjamín Manuel Jerónimo on March 9, 2004, (file on preliminary objections and merits and reparations, tome III, folios 470 to 488); statement made before notary public by Eulalio Grave Ramírez on March 9, 2004, (file on preliminary objections and merits and reparations, tome III, folios 489 to 502); testimony of Juan Manuel Jerónimo given before the Inter-American Court during the public hearing held on April 23, 2004; testimony of Buenaventura Manuel Jerónimo given before the Inter-American Court during the public hearing held on April 23, 2004, and report of Nieves Gómez Dupuis given before the Inter-American Court during the public hearing held on April 24, 2004.

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49(16) In the village of Plan de Sánchez, the traditional community structure was substituted by a vertical, militaristic structure; the traditional Mayan authorities were replaced by military agents and the heads of the PAC. The leaders who survived the massacre could not continue performing their role in the community because they were subjugated by the Army. The community's will, based on the consensus of its members and on the Mayan norms and values of respect and service, was eliminated and replaced by authoritarian practices and the arbitrary use of power. The imposition of the military structure affected community life in Plan de Sánchez, because it brought about the fragmentation of the group and the loss of reference points within it. [FN242]

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[FN242] Cf. statement made before notary public by Benjamín Manuel Jerónimo on March 9, 2004, (file on preliminary objections and merits and reparations, tome III, folios 470 to 488); statement made before notary public by Eulalio Grave Ramírez on March 9, 2004, (file on preliminary objections and merits and reparations, tome III, folios 489 to 502); testimony of Juan Manuel Jerónimo given before the Inter-American Court during the public hearing held on April 23, 2004; testimony of Buenaventura Manuel Jerónimo given before the Inter-American Court during the public hearing held on April 23, 2004; report of Augusto Willemsen-Díaz given before the Inter-American Court during the public hearing held on April 23, 2004, and report of Nieves Gómez Dupuis given before the Inter-American Court during the public hearing held on April 24, 2004, and CEH report, *supra* note 238, tome III, pages. 206-211, paras. 2944 to 2950.

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49(17) The physical and mental health of the surviving victims of the massacre has been affected owing to the events. [FN243]

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[FN243] Cf. statement made before notary public by Benjamín Manuel Jerónimo on March 9, 2004, (file on preliminary objections and merits and reparations, tome III, folios 470 to 488); statement made before notary public by Eulalio Grave Ramírez on March 9, 2004, (file on preliminary objections and merits and reparations, tome III, folios 489 to 502); testimony of Juan Manuel Jerónimo given before the Inter-American Court during the public hearing held on April



23, 2004; testimony of Buenaventura Manuel Jerónimo given before the Inter-American Court during the public hearing held on April 23, 2004; testimony of Narcisa Corazón Jerónimo given before the Inter-American Court during the public hearing held on April 23, 2004, and report of Nieves Gómez Dupuis given before the Inter-American Court during the public hearing held on April 24, 2004.

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49(18) The lack of thoroughness in the investigation and processing of the criminal proceedings (supra para. 49(6), 49(8) and 49(9)), and the obstructions to the latter make it clear that both the Attorney General's office and the courts of law have not shown any desire to clarify the facts relating to the Plan de Sánchez massacre, which occurred on July 18, 1982, or to prosecute and punish all the perpetrators and masterminds. The acts of violence and repression to which the surviving victims of the massacre were subjected have not been investigated either; and they continue to be subjected to discriminatory practices in their attempts to have access to justice. The impunity that reigns in this case keeps the events present in the collective memory and stands in the way of rebuilding the social fabric. [FN244] This whole situation has caused non-pecuniary damage to the victims in this case. [FN245]

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[FN244] Cf. statement made before notary public by Benjamín Manuel Jerónimo on March 9, 2004, (file on preliminary objections and merits and reparations, tome III, folios 470 to 488); statement made before notary public by Eulalio Grave Ramírez on March 9, 2004, (file on preliminary objections and merits and reparations, tome III, folios 489 to 502); testimony of Juan Manuel Jerónimo given before the Inter-American Court during the public hearing held on April 23, 2004; testimony of Buenaventura Manuel Jerónimo given before the Inter-American Court during the public hearing held on April 23, 2004; testimony of Narcisa Corazón Jerónimo given before the Inter-American Court during the public hearing held on April 23, 2004, and report of Nieves Gómez Dupuis given before the Inter-American Court during the public hearing held on April 24, 2004.

[FN245] Cf. statement made before notary public by Benjamín Manuel Jerónimo on March 9, 2004, (file on preliminary objections and merits and reparations, tome III, folios 470 to 488); statement made before notary public by Eulalio Grave Ramírez on March 9, 2004, (file on preliminary objections and merits and reparations, tome III, folios 489 to 502); testimony of Juan Manuel Jerónimo given before the Inter-American Court during the public hearing held on April 23, 2004; testimony of Buenaventura Manuel Jerónimo given before the Inter-American Court during the public hearing held on April 23, 2004; testimony of Narcisa Corazón Jerónimo given before the Inter-American Court during the public hearing held on April 23, 2004, and report of Nieves Gómez Dupuis given before the Inter-American Court during the public hearing held on April 24, 2004.

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49(19) The women who were raped by the State agents on the day of the massacre, and who survived the massacre, still suffer from that attack. The rape of women was a State practice, executed in the context of massacres, designed to destroy the dignity of women at the cultural, social, family and individual levels. These women consider themselves stigmatized in their communities and have suffered from the presence of the perpetrators in the town's common

areas. Also, the continuing impunity of the events [FN246] has prevented the women from taking part in the legal proceedings.

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[FN246] Cf. report of Nieves Gómez Dupuis given before the Inter-American Court during the public hearing held on April 24, 2004, and CEH report, supra note 238, tome III, p. 13, para. 2351.

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Regarding the expenses arising from the representation of the victims before the inter-American system for the protection of human rights

49(20) The victims have been represented in the proceedings before the Inter-American Commission and Court by members of the Center for Legal Action on Human Rights (CALDH), who have incurred a series of expenses. [FN247]

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[FN247] Cf. power of attorney granted to CALDH to act as the representatives in the case before the Inter-American Court (file of appendixes to the application, tome II, appendix 19, folios 969 to 972), and vouchers for expenditures provided by the representatives in their final arguments brief (file of appendixes to the final arguments brief of the victims' representatives, tome I, appendixes G-1 to G-7, folios 228 to 383 and tome II, appendixes G-7 to G-14, folios 384 to 521).

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## VIII. REPARATIONS (APPLICATION OF ARTICLE 63(1))

### Obligation to Repair

50. In accordance with the judgment on merits in this case delivered by the Court on April 29, 2004, and the terms of the State's acknowledgement of international responsibility, the latter violated the rights embodied in Articles 5(1) and 5(2) (Right to Humane Treatment), 8(1) (Right to a Fair Trial), 11 (Right to Privacy), 12(2) and 12(3) (Freedom of Conscience and Religion), 13(2)(a) and 13(5) (Freedom of Thought and Expression), 16(1) (Freedom of Association), 21(1) and 21(2) (Right to Property), 24 (Right to Equal Protection) and 25 (Right to Judicial Protection) of the American Convention, and failed to comply with Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of the victims indicated in paragraph 49(10) of this judgment.

51. Article 63(1) of the American Convention establishes that:

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

52. This provision contains a customary norm that constitutes one of the basic principles of contemporary international law on State responsibility. When an unlawful act occurs, which can be attributed to a State, this gives rise immediately to its international responsibility for violating the international norm, with the consequent obligation to cause the consequences of the violation to cease and to repair the damage caused. [FN248]

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[FN248] Cf. Case of Tibi, *supra* note 3, para. 223; Case of the “Juvenile Reeducation Institute”, *supra* note 3, para. 258, and Case of Ricardo Canese, *supra* note 3, para. 193.

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53. Whenever possible, reparation of the damage caused by the violation of an international obligation requires full restitution (*restitutio in integrum*), which consists in the re-establishment of the previous situation. If this is not possible, as in the instant case, the international Court must determine a series of measures to ensure that, in addition to guaranteeing respect for the violated rights, the consequences of the violations are remedied and compensation paid for the damage caused. [FN249] The responsible State may not invoke provisions of domestic law to modify or fail to comply with its obligation to provide reparation, all aspects of which (scope, nature, methods and determination of the beneficiaries) are regulated by international law. [FN250]

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[FN249] Cf. Case of Tibi, *supra* note 3, para. 224; Case of the “Juvenile Reeducation Institute”, *supra* note 3, para. 259, and Case of Ricardo Canese, *supra* note 3, para. 194.

[FN250] Cf. Case of Tibi, *supra* note 3, para. 224; Case of the “Juvenile Reeducation Institute”, *supra* note 3, para. 259, and Case of Ricardo Canese, *supra* note 3, para. 194.

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54. It has to be taken into consideration that, in many cases of human rights violations, such as the instant case, *restitutio in integrum* is not possible; therefore, bearing mind the nature of the juridical right affected, reparation is made, *inter alia*, according to international case law, by means of fair indemnity or pecuniary compensation. It is also necessary to add any positive measures the State must adopt to ensure that the harmful acts, such as those that occurred in this case, are not repeated. [FN251]

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[FN251] Cf. Case of the “Juvenile Reeducation Institute”, *supra* note 3, para. 260; Case of Ricardo Canese, *supra* note 3, para. 195; and. Judgment of July 8, 2004. Series C No. 110, para. 189.

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55. In accordance with the evidence gathered during the proceedings and in light of the foregoing criteria, the Court proceeds to consider the claims presented by the Commission and by the representatives concerning reparations, in order to determine, first, who are the beneficiaries of the reparations, and then to establish the measures of reparation to repair pecuniary and non-pecuniary damage, and also costs and expenses.

## A) BENEFICIARIES

56. The Court now summarizes the arguments of the Inter-American Commission, the representatives, and the State regarding those who should be considered beneficiaries of the reparations ordered by the Court.

### Arguments of the Commission

57. The Commission stated that the victims of this case, holders of the right to reparation in the terms of Article 63(1) of the Convention, are the survivors of the Plan de Sánchez Massacre and the next of kin of those extrajudicially executed in the massacre, identified in the application brief presented on July 31, 2002, and in its attachment. In this regard, the Commission indicated that, owing to the passage of time, the way in which the people were executed, and the dimensions of the massacre, it has been difficult to individualize the victims and their next of kin. Consequently, it is essential that, as part of the reparations, the State should set up a committee to identify the victims.

### Arguments of the representatives

58. The victims' representatives stated that the beneficiaries of the reparations should be the survivors of the massacre and the next of kin of those executed in the massacre, according to the list submitted during the processing of this case. However, they indicated that, owing to the magnitude of the massacre, and despite the efforts made, it has not been possible to identify all the survivors of the Plan de Sánchez massacre of July 18, 1982, who have a right to reparation; they therefore requested the Court to order the State to set up a committee to identify them.

### Arguments of the State

59. The State indicated that, to be able to make pecuniary reparation to the survivors and the next of kin of the victims of the Plan de Sánchez massacre, pursuant to the norms of the domestic law of the State, the beneficiaries must be identified and the lists forwarded by the Commission and the representatives verified.

### Considerations of the Court

60. The Court will proceed to determine those who should be considered an "injured party" in the terms of Article 63(1) of the American Convention and, consequently, a beneficiary of the reparations established by the Court, with regard to both pecuniary and non-pecuniary damage, when applicable.

61. On this occasion, the Court considers that the surviving victims of the massacre who are individualized on the list of victims contained in paragraph 49(10) of this judgment are the "injured party." They shall all be beneficiaries of the reparations established by the Court.

62. It should be recalled that, in contentious cases before the Court, the interested party must advise who is or are the beneficiaries. [FN252] In this regard, in paragraph 48 of the judgment delivered on April 29, 2004, this Court considered that the individuals indicated in paragraph 42(48) of that judgment were the victims and indicated that those identified subsequently could also be considered victims. Although the representatives and the Commission stated that they had encountered difficulty in identifying the victims and the State indicated that, pursuant to domestic law, it was necessary to identify them without offering any other elements of evidence to this end, this Court, following the criteria established on another occasion, [FN253] considers that it is unable to establish any compensation for victims who have not been individualized at this time. Without detriment to the foregoing, this Court reserves the possibility to determine, in the corresponding section, other forms of reparation in favor of all the members of the communities affected by the facts of the case.

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[FN252] Cf. Case of the “Juvenile Reeducation Institute”, supra note 3, para. 273.

[FN253] Cf. Case of the “Juvenile Reeducation Institute”, supra note 3, para. 273.

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63. Given the specific characteristics of the case sub judice; the events that took place on July 18, 1982, the day of the massacre, which some inhabitants of the village of Plan de Sánchez and other nearby villages such as Chipuerta, Joya de Ramos, Raxjut, Volcanillo, Coxojabaj, Las Tunas, Las Minas, Las Ventanas, Ixchel, Chiac, Concul and Chichupac survived; and also events that have occurred since March 9, 1987, when the State accepted the jurisdiction of the Court; Guatemala’s acknowledgement of international responsibility, and the arguments of the Commission, the representatives, and the State about the problems that exist to identify the victims, beneficiaries of the reparations, this Court considers that those victims have been identified, for whom the representatives submitted a birth certificate, an identity card, or a marriage certificate, or another document issued by a competent authority which refers to one of the victims, such as a death certificate.

64. In this regard, the Court observes that, on the list of victims included in the proven facts (supra para. 49(10)), there are some people with the same or similar names. For instance: Domingo Ic Rojas, Guillermo Toj Manuel, Humberto Rojas, Juana Juárez Grave, Justina Sánchez, Plácido Jerónimo Grave, Rosa Raxcacó Juárez, Juan Álvarez Pérez, Eugenia Morales Iboy/Eugenia Ivoy, Leocadia Rojas/Leocadia Ic Rojas, Ramón Rojas/Ramón Rojas Ic, Salomé Rojas/Salomé Ic Rojas, Virgilio Rojas/Virgilio Ic Rojas, Paulina Guzmán/Paulina Guzmán Alvarado, Alejandro Grave Oxlaj/Alejandro Grave, Valeria Grave Cajbón/Valerio Grave Cajbón and Juan Cajbón/Juan Cajbón Corazón. Considering the difficulties in identifying the victims in this case, the Court has considered it appropriate to maintain their names as distinct victims, without detriment to the contrary being established (in other words, that it is the same person) when the corresponding compensation is claimed. The Court also notes that Francisco Tecú Manuel and Leandra Chajáj were included in paragraph 42(48) of the judgment on merits as survivors of the massacre. However, the representatives clarified that Mariana Chajáj should be considered instead of Leandra Chajáj. The representatives remitted the death certificates of Francisco Tecú Manuel and Mariana Chajáj, executed in the massacre (supra para. 49(10.8.ii)); consequently, they have not been considered surviving victims of the massacre.

65. The individual amount of the compensation established by the Court will be delivered to each beneficiary as a surviving victim of the massacre. Should any victim have died, the amount that would have corresponded to him will be distributed in accordance with domestic laws of succession.

66. The victims are:

a) From the Plan de Sánchez community

1. Carmen Corazón Jerónimo
2. Narcisa Corazón Jerónimo
3. Margarita Grave Cajbón
4. Tomás Grave Cajbón
5. Valerio Grave Cajbón
6. Eulalio Grave Ramírez
7. Benjamín Manuel Jerónimo
8. Juan Manuel Jerónimo
9. Esteban Manuel Jerónimo
10. Buenaventura Manuel Jerónimo
11. Plácido Jerónimo Grave
12. Margarita Ivoy
13. Salvador Jerónimo Sánchez
14. Juan Grave Ramírez
15. Andrea Ramírez
16. Tomás Jerónimo Sánchez
17. María Cristina Reyes Álvarez
18. Jorge Luis Reyes Álvarez
19. César Augusto Reyes Álvarez
20. Juan Álvarez Pérez
21. Alejandro Grave Oxlaj
22. Francisca Juárez Manuel
23. Juliana Rojas
24. Adrián Cajbón Jerónimo
25. Emiliana Grave
26. Eugenia Ivoy
27. Guadalupe Cajbón Jerónimo
28. Luis Cajbón Oxlaj
29. Prudencia Cajbón Jerónimo
30. Juan Cajbón Corazón
31. Ezequiel Grave Oxlaj
32. Andrés Grave Valey
33. Faustina Cojóm Manuel

b) From other communities

1. Patricia Álvarez Alvarado
2. Leticia Álvarez Alvarado
3. Lucrecia Álvarez Alvarado
4. Silvia Álvarez Alvarado
5. Felisa o Feliciana Padilla
6. Juan Álvarez Pérez
7. Margarita Osorio Manuel
8. Pablo Grave Cajbón
9. Pedro Grave Cajbón
10. Tomás Cajbón Manuel
11. Domingo Cajbón Manuel
12. Gregoria Tecú Chajáj
13. Juana Tecú Chajáj
14. Toribio Tecú Chajáj
15. Felisa Tecú Chajáj
16. Alberto Morales Iboy
17. Eugenia Morales Iboy
18. Carlos Rafael Jerónimo Sánchez
19. Hermenegildo Jerónimo Sánchez
20. María Rogelia Jerónimo Corazón
21. Tomasa Jerónimo Corazón
22. Pablo García Pérez
23. María García Pérez
24. Josefina García Pérez
25. Maribel García Pérez
26. Mario García Pérez
27. Cornelio García Pérez
28. María Hernández Galeano
29. Jesús Hernández González
30. Vicente Orellana Morales
31. Miguel Orellana Morales
32. Gumercindo Orellana Morales
33. Margarita Morales Pérez
34. Juan Morales Pérez
35. César Augusto Morales Pérez
36. Inés Pérez García
37. Celestino Morales Pérez
38. Sarvelio Morales Pérez
39. Bernarda Morales Pérez
40. Aura Marina Morales Pérez
41. Raúl Morales Pérez
42. Angélica Morales Pérez
43. Daniel Tecú Manuel
44. María Herlinda Tecú Manuel
45. María Marta Manuel Tecú
46. María Modesta Hernández Ic

47. Jacinto Ic Sesám
48. Antonia Manuel Sis
49. Francisco García López
50. Ricarda García López
51. Santos García Morales
52. Carmen Tejeda Orellana
53. Fermina Reyes Reyes
54. Lucía Raxcacó Sesám
55. Domingo Raxcacó Sesám
56. Teresa Tecú
57. Víctor Morales Alvarado
58. Jerónimo Morales Alvarado
59. María Concepción Morales Alvarado
60. Nicolasa Ixtecoc
61. José Morales Juárez
62. María Morales Juárez
63. Pedrina Morales Juárez
64. Gregoria Jerónimo Ixpatá
65. Darío López Juárez
66. Emiliana López Juárez
67. Julia López Juárez
68. Toribio Morales Jerónimo
69. María Griselda Reyes Mejicanos
70. Alvaro Rocael Reyes Mejicanos
71. Lázaro Alvarado Manuel
72. Julia Manuel
73. Julia Raxcacó Manuel
74. Balbino Cajbón Cortéz
75. Paulina Grave Oxlaj
76. Emiliana Grave López
77. Francisco Cortéz Xitumul
78. Juliana Tecú Grave
79. Juan Galeano
80. Rosario Galeano
81. Julia o Juliana Juárez
82. Simeona Corazón Galeano
83. Catalina Galeano
84. Francisca Caballeros
85. Pablo Guzmán Reyes
86. María de Jesús Alvarado
87. Zuleta Soto Tejada
88. Ricardo Tecú Manuel
89. Natividad Morales
90. Sabina Tejeda
91. Héctor Manuel García Mejicanos



67. With regard to the victims individualized in the judgment delivered by the Court on April 29, 2004, or those who were included for the first time in the attachments to the representatives' final written arguments or in the helpful evidence (in accordance with paragraph 48 of that judgment), with regard to whom the representatives could not remit the appropriate documents to identify them, this Court decides that the compensation that corresponds to them for the damage suffered will be adjusted to the parameters of the identified victims (*supra* paras. 64 and 65), provided they present themselves before the competent State authorities within 24 months of the notification of this judgment and bring the necessary information to identify themselves.

68. The victims, regarding whom, no appropriate document to confirm their identity was forwarded, are as follows:

a) From the Plan de Sánchez community

1. Guillermo Toj Manuel
2. Guillermo Toj Manuel
3. Juana Álvarez Pérez
4. Jorge Álvarez Pérez
5. Víctor Manuel Reyes García
6. Lorenza Cajbón Grave
7. José María Cajbón Grave
8. Emilia o Emiliana Cajbón Grave
9. Alejandro Grave
10. Enrique Cajbón Jerónimo
11. Francisca Galeano Galeano
12. Plácido Jerónimo Grave

b) From other communities

1. Felipe Antonio Álvarez Alvarado
2. Basilio Tecú Chajáj
3. July Tecú Chajáj
4. Modesta Hernández
5. Eduviges Orellana Morales
6. Julián Morales Pérez
7. María del Carmen Morales Pérez
8. Lauro García Morales
9. Inocenta Morales López
10. Bairon Eduardo Tejeda Reyes
11. Delvin Donald Tejada Reyes
12. Víctor Aníbal Tejeda Reyes
13. María Elena Tejeda Reyes
14. Pedro Raxcacó Sesám
15. Rufino Raxcacó Sesám
16. Catalina Raxcacó Sesám
17. Dolores Morales Alvarado

18. José León Alvarado
19. Alberto Morales Juárez
20. Francisco Morales Juárez
21. Juana Morales Juárez
22. María Juliana Morales Juárez
23. Ceferino Jerónimo Ixpatá
24. Rosa Jerónimo Ixpatá
25. Juana Jerónimo Ixpatá
26. Pablo Jerónimo Ixpatá
27. Roberto Jerónimo Ixpatá
28. Regina López Juárez
29. Roberta López Juárez
30. Eustaquio Morales Jerónimo
31. Bernardino Morales Jerónimo
32. Pedrina Reyes Mejicanos
33. Hermelinda Reyes Mejicanos
34. Rogelia Reyes Mejicanos
35. Jesús Reyes Mejicanos
36. Angela Juárez Chen
37. Manuel Ampérez Corazón
38. Albino Cajbón
39. Marta Galeano
40. Celestino Morales García
41. Benedicto Morales García
42. Florentino Morales García
43. Hermelinda Morales García
44. Pedrina Morales García
45. Rufino Morales García
46. Hilario Galeano
47. Silvestre Galeano
48. Bernardo Tecú González
49. Victoria Tecú González
50. Paulina Tecú González
51. Paulina Guzmán
52. Pedrina Soto Martínez
53. Demetrio Soto Martínez
54. Pedro Soto Martínez
55. Isabel Soto Martínez
56. Martina Soto Martínez
57. Carmelina Soto Martínez
58. Zoila Soto Martínez
59. Sebelia Soto Martínez
60. Rodolfo Soto Martínez
61. Maruca Martínez García
62. Ana María Tecú Morales
63. Irena Tejada Orellana

64. Odilia Tejeda Orellana
65. Telma Tejeda Orellana
66. Daniel Tejeda Orellana
67. Eulalio Tejeda
68. Mercedes Orellana García
69. Salvador Manuel Jerónimo
70. Pablo Grave Jerónimo
71. Florencia Cajbón Jerónimo
72. Hermenegildo Alvarado Raxcacó
73. Lucas Juárez Ampérez
74. Valeria Grave Cajbón
75. Emiliano Cajbón Grave
76. Jesús Cajbón Grave
77. Santa Cajbón Manuel
78. Bartolomé Cajbón Manuel
79. Petronila Tecú Chajáj
80. Celestino Chinchilla Guzmán
81. María Aurelia Jerónimo Corazón
82. Juan Cajbón
83. Alejandro Cortéz Tecú
84. Florencia Cortéz Tecú
85. Cristina Cortéz Tecú
86. Fidel Cortéz Tecú
87. Efraín Cortéz Tecú
88. Juana Cortéz Tecú
89. Natividad Cortéz Tecú
90. Justina Sánchez
91. Justina Sánchez
92. Demetrio Cajbón Galeano
93. Francisco Rojas Ic
94. Ramón Rojas Ic
95. Humberto Rojas
96. Humberto Rojas
97. Domingo Ic Rojas
98. Domingo Ic Rojas
99. Leocadia Ic Rojas
100. Salomé Ic Rojas
101. Virgilio Ic Rojas
102. Carlos Enrique Caballeros
103. Froilán García Caballeros
104. Domingo García Caballeros
105. María García Caballeros
106. Jesús Grave Tecú
107. Valentina Grave Tecú
108. Héctor Guzmán Alvarado
109. Paulina Guzmán Alvarado

110. Felipe Hernández Galeano
111. Juana Hernández Galeano
112. Ventura Hernández Galeano
113. Elías Hernández Galeano
114. Leocadia Rojas
115. Ramón Rojas
116. Salomé Rojas
117. Virgilio Rojas
118. Jerónimo Jerónimo Ixpatá
119. Natividad Raxcacó Juárez
120. Cecilio Raxcacó Juárez
121. David Raxcacó Juárez
122. Jesusa Raxcacó Juárez
123. Pedro Raxcacó Juárez
124. Rosa Raxcacó Juárez
125. Rosa Raxcacó Juárez
126. María Juárez Manuel
127. Corazón Manuel Ampérez
128. Abelino Juárez Grave
129. Faustina Juárez Grave
130. Juana Juárez Grave
131. Juana Juárez Grave
132. Leoncio Juárez Grave
133. María Juárez Grave
134. Paula Juárez Grave
135. Julián Morales Jerónimo
136. Pedro Morales Corazón
137. Chabelo Morales Ivoy
138. Miguel Ángel Morales Ivoy
139. Viviana Morales Ivoy
140. Andrés Morales Ivoy
141. Bernardo Morales Ivoy
142. Herlinda Morales Ivoy
143. Emiliana Morales Ivoy
144. Natividad Morales Ivoy
145. Santos Morales Ivoy
146. Pedrina Morales Xitumul
147. José Bolaj Jerónimo
148. Carlos Morales Pérez
149. Antonio Pérez García
150. Miguel Pérez García
151. Enrique Sesám Tecú
152. Pedro Sesám Tecú
153. Serapio Sesám Tecú
154. Dionisio Sesám Tecú
155. Eustaquia Sesám Tecú

156. Albertina Sesám Tecú
157. Silveria Sesám Tecú
158. Demetria Soto Tejeda
159. Cipriano Soto Tejeda
160. Irene Soto Tejeda
161. Hilario Soto Tejeda
162. Macario Soto Tejeda
163. Cecilio Soto Tejeda
164. Margarito Soto Tejeda
165. Sabino Soto Tejeda
166. Julián Tecú Chajáj
167. Cecilio Tecú Chajáj
168. Lorenza Tecú Chajáj
169. Pedro Tecú Manuel
170. Bartolomé Tecú Manuel
171. Carlota Tecú Manuel
172. Victoria Tecú Manuel
173. María Antonia Tecú Morales
174. Paulina Tecú Morales
175. Gregorio Tejeda Orellana
176. Bartolo Tejeda Orellana
177. Isabel Tejeda Orellana
178. Hilaria Tejeda Orellana
179. Antonio Tejeda
180. Everildo Tejeda
181. Lázaro Alvarado Raxcacó

B) PECUNIARY DAMAGE

Arguments of the Commission

69. The Commission alleged that:

It is difficult to calculate the pecuniary damage caused to the members of the Plan de Sánchez community, owing to the years that have elapsed, the oral tradition characteristic of their culture, which explains the impossibility of finding documents authenticating the material losses they suffered, and the type of financial and agricultural economy of the community, where they ceased to farm for many years;

- a) The indirect damage includes the patrimonial damage suffered as a consequence of the massacre and the expenses which the victims or their next of kin incurred as a direct result of the events. The inhabitants of Plan de Sánchez never recovered the property they lost;
- b) The “loss of earnings” should be determined justly and fairly, bearing in mind the wages that the victims failed to perceive as a result of the violation of their right to life, taking into account their age at the time of death, the number of years before they could hope to reach the average life expectancy in Guatemala and the minimum wage in force. An amount must also be

determined, in fairness, for the “loss of earnings” of the survivors and the next of kin of the victims who were extrajudicially executed in the massacre, for the damage they were caused; and

c) Regarding the amount of the compensation for pecuniary damage to which the next of kin of the victims have a right, the Commission refers to the request made by the representatives and asks the Court to determine this in fairness.

#### Arguments of the representatives

70. The victims’ representatives indicated that:

a) The indirect damage should be calculated based on the losses caused by the massacre to the families who lived in Plan de Sánchez at that time; namely, 40 households. These families lost their homes, domestic animals, basic grains, farm animals, clothes, cooking utensils, and furniture. The cost of each of these items in the market of the municipal capital of Rabinal and the cost of housing provided by “Hábitat Guatemala” should be used to calculate the amount of this compensation. Accordingly, they requested the Court to establish, in fairness, for indirect damage, the amount of US\$7,062.78 (seven thousand and sixty two United States dollars and seventy-eight cents) for each household, which amounts to US\$282,511.20 (two hundred and eight-two thousand five hundred and eleven United States dollars and twenty cents) for the 40 households;

b) The inhabitants of Plan de Sánchez, and of the communities of Concul, Chipuerta, Joya de Ramos, Raxjut, Volcanillo, Chichupac, Coxojabaj, Las Tunas, Las Minas, Las Ventanas, Ixchel, Chiac and Rabinal, victims of the massacre, were farmers; most of them farmed their own land, which was of different dimensions. They used the product of their harvest for their own subsistence and sold any surplus; their earnings depended on variables, such as the size and quality of their land, and market prices;

c) After the events of July 1982, the survivors of the massacre who had lived in Plan de Sánchez were obliged to displace outside the community, had no access to any income, and were forced to patrol in the PAC from 1985 to 1996. The next of kin of those executed in the massacre who did not live in Plan de Sánchez were also obliged to carry out patrols from November 11, 1981, until 1996;

d) The loss of earnings should be calculated on the basis of the minimum wage for agricultural activities in force in Guatemala in 2004, because its increase has not been constant as regards the quetzal’s devaluation in relation to the dollar and, owing to the dimensions of the case, it is not feasible to make specific calculations according to the yearly variations in the minimum wage. To this should be added the payment of social benefits according to Decree 76-78, in force since 1978;

e) For “loss of earnings,” the Court should establish a total of US\$1,901,643.80 (one million nine hundred and one thousand six hundred and forty-three United States dollars and eighty cents). This amount should be divided into US\$466,143,80 (four hundred and sixty six thousand one hundred and forty-three United States dollars and eighty cents) corresponding to the 40 survivors who lived in Plan de Sánchez at the time of the facts and US\$1,435,500.00 (one million four hundred and thirty-five thousand five hundred United States dollars) for the 150 next of kin of those executed in the massacre who lived in other communities; and

f) The State should set up a survivor identification committee to identify all those with a right to reparation; and also establish an adequate reserve fund, so that, when these people have

been identified, it contains US\$11,204,530.00 (eleven million two hundred and four thousand, five hundred and thirty United States dollars) to pay the amounts that the Court orders for pecuniary and non-pecuniary damages to the beneficiaries of the judgment.

#### Arguments of the State

71. The State indicated that:

- a) It cannot deny the need to compensate the pecuniary and “non-pecuniary” damage caused to the victims and their next of kin from the Plan de Sánchez village, which is irreparable;
- b) The process of paying financial reparation should begin in 2005, so that it is duly programmed and planned in the 2005 General Budget of Income and Expenditure of the Nation. In implementing this process, the magnitude of the needs and rights that the State must guarantee to all its inhabitants must be taken into account, and also the criteria established by the Court, in the sense that the amount of the reparations should not make the victims or their successors either richer or poorer; and
- c) The financial reparations decided must be executed within the framework of the National Compensation Program, in accordance with the rules of domestic legislation. Article 1 of Government Agreement No. 258-2003 of the President of the Republic, published in the official gazette on May 8, 2003, stipulates that the specific purpose of the program is “to compensate the victims of human rights violations that took place during the internal armed conflict.” It has also been established that the beneficiaries of the program include those resulting from cases that were submitted to the Inter-American Commission prior to the plan, and that are pending a ruling.

#### Considerations of the Court

72. In this section, the Court will determine the pecuniary damage and, in this regard, it will establish a compensatory amount that seeks to compensate the patrimonial consequences of the violations declared in this judgment. [FN254] To do this, it will take into account the evidence gathered in this case, its own case law, and the arguments of the Commission, the representatives and the State.

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[FN254] Cf. Case of the “Juvenile Reeducation Institute”, supra note 3, para. 283; Case of the Gómez Paquiyauri Brothers, supra note 251, para. 205, and Case of the 19 Tradesmen. Judgment of July 5, 2004. Series C No. 109, para. 236.

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73. The Court considers that it has been proved that, among the acts of violence committed by State agents subsequent to March 9, 1987, when Guatemala accepted the contentious jurisdiction of the Court, the agricultural and employment activities of the victims of Plan de Sánchez, and also the villages of Chipuerta, Joya de Ramos, Raxjut, Volcanillo, Coxojabaj, Las Tunas, Las Minas, Las Ventanas, Ixchel, Chiac, Concul and Chichupac, were affected. In this regard, the CEH report indicated that:

As a result of the armed conflict, the conditions of physical existence of the indigenous communities were affected, in the context of an acute and institutionalized indigenous poverty in rural areas and the lack of laws and social policies that protected and granted land to the indigenous communities. This translated into financial shortages of different types, the impossibility of acceding to resources for subsistence, dispossession, or forced abandonment of land, and habitat deterioration, among other damage.

[...]

During the armed conflict, land disputes were militarized and the dispossession of land increased, leaving the indigenous communities without any means of material support [...]. [CEH] has also received testimonies of cases of dispossession of land and property by members of the Army, military agents and members of patrols, and even false reports of [the indigenous people] being guerrillas, filed so that the accusers could appropriate their land. [FN255]

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[FN255] Cf. CEH Report, supra note 238, tome III, p. 192, paras. 2904 and 2905.

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74. Taking into account, inter alia, the circumstances of the case and that there are sufficient grounds for presuming the existence of damage, [FN256] the Court establishes, in fairness, the amount of US\$5,000.00 (five thousand United States dollars) or its equivalent in national currency, for each of the victims indicated in the tables included in paragraph 75 (a) and (b) of this judgment, for pecuniary damage. It has also been proved that the victims who lived in Plan de Sánchez lost their homes, and the Court will bear this in mind when ordering the State to make other forms of reparation (infra para. 105).

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[FN256] Cf. Case of the “Juvenile Reeducation Institute”, supra note 3, para. 288; Case of Molina Theissen, Reparations (Art. 63(1) American Convention on Human Rights). Judgment of July 3, 2004. Series C No. 108, para. 57, and Case of Bulacio. Judgment of September 18, 2003. Series C No. 100, para. 84.

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75. The corresponding compensation shall be delivered to each of the victims, as stipulated in paragraphs 64 and 65 of this judgment. Based on the foregoing, the Court establishes the following amounts as compensation for pecuniary damage caused by the violations declared in this case:

a) From the Plan de Sánchez community

Surviving victims	Pecuniary damage
Carmen Corazón Jerónimo	US\$5,000.00
Narcisa Corazón Jerónimo	US\$5,000.00
Margarita Grave Cajbón	US\$5,000.00
Tomás Grave Cajbón	US\$5,000.00
Valerio Grave Cajbón	US\$5,000.00
Eulalio Grave Ramírez	US\$5,000.00



Benjamín Manuel Jerónimo	US\$5,000.00
Juan Manuel Jerónimo	US\$5,000.00
Esteban Manuel Jerónimo	US\$5,000.00
Buenaventura Manuel Jerónimo	US\$5,000.00
Plácido Jerónimo Grave	US\$5,000.00
Margarita Ivoy	US\$5,000.00
Salvador Jerónimo Sánchez	US\$5,000.00
Juan Grave Ramírez	US\$5,000.00
Andrea Ramírez	US\$5,000.00
Tomás Jerónimo Sánchez	US\$5,000.00
María Cristina Reyes Álvarez	US\$5,000.00
Jorge Luis Reyes Álvarez	US\$5,000.00
César Augusto Reyes Álvarez	US\$5,000.00
Juan Álvarez Pérez	US\$5,000.00
Alejandro Grave Oxlañ	US\$5,000.00
Francisca Juárez Manuel	US\$5,000.00
Juliana Rojas	US\$5,000.00
Adrián Cajbón Jerónimo	US\$5,000.00
Emiliana Grave	US\$5,000.00
Eugenia Ivoy	US\$5,000.00
Guadalupe Cajbón Jerónimo	US\$5,000.00
Luis Cajbón Oxlañ	US\$5,000.00
Prudencia Cajbón Jerónimo	US\$5,000.00
Juan Cajbón Corazón	US\$5,000.00
Ezequiel Grave Oxlañ	US\$5,000.00
Andrés Grave Valey	US\$5,000.00
Faustina Cojóm Manuel	US\$5,000.00
TOTAL	US\$165,000.00

b) From other communities

Surviving victims	Pecuniary damage
Patricia Álvarez Alvarado	US\$5,000.00
Leticia Álvarez Alvarado	US\$5,000.00
Lucrecia Álvarez Alvarado	US\$5,000.00
Silvia Álvarez Alvarado	US\$5,000.00
Felisa o Feliciano Padilla	US\$5,000.00
Juan Álvarez Pérez	US\$5,000.00
Margarita Osorio Manuel	US\$5,000.00
Pablo Grave Cajbón	US\$5,000.00
Pedro Grave Cajbón	US\$5,000.00
Tomás Cajbón Manuel	US\$5,000.00
Domingo Cajbón Manuel	US\$5,000.00
Gregoria Tecú Chajáj	US\$5,000.00
Juana Tecú Chajáj	US\$5,000.00
Toribio Tecú Chajáj	US\$5,000.00

Felisa Tecú Chajáj	US\$5,000.00
Alberto Morales Iboy	US\$5,000.00
Eugenia Morales Iboy	US\$5,000.00
Carlos Rafael Jerónimo Sánchez	US\$5,000.00
Hermenegildo Jerónimo Sánchez	US\$5,000.00
María Rogelia Jerónimo Corazón	US\$5,000.00
Tomasa Jerónimo Corazón	US\$5,000.00
Pablo García Pérez	US\$5,000.00
María García Pérez	US\$5,000.00
Josefina García Pérez	US\$5,000.00
Maribel García Pérez	US\$5,000.00
Mario García Pérez	US\$5,000.00
Cornelio García Pérez	US\$5,000.00
María Hernández Galeano	US\$5,000.00
Jesús Hernández González	US\$5,000.00
Vicente Orellana Morales	US\$5,000.00
Miguel Orellana Morales	US\$5,000.00
Gumerindo Orellana Morales	US\$5,000.00
Margarita Morales Pérez	US\$5,000.00
Juan Morales Pérez	US\$5,000.00
César Augusto Morales Pérez	US\$5,000.00
Inés Pérez García	US\$5,000.00
Celestino Morales Pérez	US\$5,000.00
Sarvelio Morales Pérez	US\$5,000.00
Bernarda Morales Pérez	US\$5,000.00
Aura Marina Morales Pérez	US\$5,000.00
Raúl Morales Pérez	US\$5,000.00
Angélica Morales Pérez	US\$5,000.00
Daniel Tecú Manuel	US\$5,000.00
María Herlinda Tecú Manuel	US\$5,000.00
María Marta Manuel Tecú	US\$5,000.00
María Modesta Hernández Ic	US\$5,000.00
Jacinto Ic Sesám	US\$5,000.00
Antonia Manuel Sis	US\$5,000.00
Francisco García López	US\$5,000.00
Ricarda García López	US\$5,000.00
Santos García Morales	US\$5,000.00
Carmen Tejeda Orellana	US\$5,000.00
Fermina Reyes Reyes	US\$5,000.00
Lucía Raxcacó Sesám	US\$5,000.00
Domingo Raxcacó Sesám	US\$5,000.00
Teresa Tecú	US\$5,000.00
Víctor Morales Alvarado	US\$5,000.00
Jerónimo Morales Alvarado	US\$5,000.00
María Concepción Morales Alvarado	US\$5,000.00
Nicolasa Ixtecoc	US\$5,000.00

José Morales Juárez	US\$5,000.00
María Morales Juárez	US\$5,000.00
Pedrina Morales Juárez	US\$5,000.00
Gregoria Jerónimo Ixpatá	US\$5,000.00
Darío López Juárez	US\$5,000.00
Emiliana López Juárez	US\$5,000.00
Julia López Juárez	US\$5,000.00
Toribio Morales Jerónimo	US\$5,000.00
María Griselda Reyes Mejicanos	US\$5,000.00
Alvaro Rocael Reyes Mejicanos	US\$5,000.00
Lázaro o Pedro Alvarado Manuel	US\$5,000.00
Julia Manuel	US\$5,000.00
Julia Raxcacó Manuel	US\$5,000.00
Balbino Cajbón Cortéz	US\$5,000.00
Paulina Grave Oxlañ	US\$5,000.00
Emiliana Grave López	US\$5,000.00
Francisco Cortéz Xitumul	US\$5,000.00
Juliana Tecú Grave	US\$5,000.00
Juan Galeano	US\$5,000.00
Rosario Galeano	US\$5,000.00
Julia o Juliana Juárez	US\$5,000.00
Simeona Corazón Galeano	US\$5,000.00
Catalina Galeano	US\$5,000.00
Francisca Caballeros	US\$5,000.00
Pablo Guzmán Reyes	US\$5,000.00
María de Jesús Alvarado	US\$5,000.00
Zuleta Soto Tejada	US\$5,000.00
Ricardo Tecú Manuel	US\$5,000.00
Natividad Morales	US\$5,000.00
Sabina Tejada	US\$5,000.00
Héctor Manuel García Mejicanos	US\$5,000.00
TOTAL	US\$ 455,000.00

76. The Court also establishes, in fairness, for pecuniary damage, the amount of US\$5,000.00 (five thousand United States dollars) or its equivalent in national currency, for each of the victims for whom no appropriate identification document has been remitted and who are indicated in subparagraphs (a) and (b) of this paragraph. These amounts shall be delivered to each of them as stipulated in paragraphs 64, 65 and 67 of this judgment. On this basis, the Court establishes the following amounts as compensation for pecuniary damage caused by the violations declared in this case:

a) From the Plan de Sánchez community

Surviving victims	Pecuniary damage
Guillermo Toj Manuel	US\$5,000.00
Guillermo Toj Manuel	US\$5,000.00

Juana Álvarez Pérez	US\$5,000.00
Jorge Álvarez Pérez	US\$5,000.00
Víctor Manuel Reyes García	US\$5,000.00
Lorenza Cajbón Grave	US\$5,000.00
José María Cajbón Grave	US\$5,000.00
Emilia o Emiliana Cajbón Grave	US\$5,000.00
Alejandro Grave	US\$5,000.00
Enrique Cajbón Jerónimo	US\$5,000.00
Francisca Galeano Galeano	US\$5,000.00
Plácido Jerónimo Grave	US\$5,000.00
TOTAL	US\$60,000.00

b) From other communities

Surviving victims	Pecuniary damage
Felipe Antonio Álvarez Alvarado	US\$5,000.00
Basilio Tecú Chajáj	US\$5,000.00
July Tecú Chajáj	US\$5,000.00
Modesta Hernández	US\$5,000.00
Eduviges Orellana Morales	US\$5,000.00
Julián Morales Pérez	US\$5,000.00
María del Carmen Morales Pérez	US\$5,000.00
Lauro García Morales	US\$5,000.00
Inocenta Morales López	US\$5,000.00
Bairon Eduardo Tejeda Reyes	US\$5,000.00
Delvin Donald Tejeda Reyes	US\$5,000.00
Víctor Aníbal Tejeda Reyes	US\$5,000.00
María Elena Tejeda Reyes	US\$5,000.00
Pedro Raxcacó Sesám	US\$5,000.00
Rufino Raxcacó Sesám	US\$5,000.00
Catalina Raxcacó Sesám	US\$5,000.00
Dolores Morales Alvarado	US\$5,000.00
José León Alvarado	US\$5,000.00
Alberto Morales Juárez	US\$5,000.00
Francisco Morales Juárez	US\$5,000.00
Juana Morales Juárez	US\$5,000.00
María Juliana Morales Juárez	US\$5,000.00
Ceferino Jerónimo Ixpatá	US\$5,000.00
Rosa Jerónimo Ixpatá	US\$5,000.00
Juana Jerónimo Ixpatá	US\$5,000.00
Pablo Jerónimo Ixpatá	US\$5,000.00
Roberto Jerónimo Ixpatá	US\$5,000.00
Regina López Juárez	US\$5,000.00
Roberta López Juárez	US\$5,000.00
Eustaquio Morales Jerónimo	US\$5,000.00
Bernardino Morales Jerónimo	US\$5,000.00

Pedrina Reyes Mejicanos	US\$5,000.00
Hermelinda Reyes Mejicanos	US\$5,000.00
Rogelia Reyes Mejicanos	US\$5,000.00
Jesús Reyes Mejicanos	US\$5,000.00
Angela Juárez Chen	US\$5,000.00
Manuel Ampérez Corazón	US\$5,000.00
Albino Cajbón	US\$5,000.00
Marta Galeano	US\$5,000.00
Celestino Morales García	US\$5,000.00
Benedicto Morales García	US\$5,000.00
Florentino Morales García	US\$5,000.00
Hermelinda Morales García	US\$5,000.00
Pedrina Morales García	US\$5,000.00
Rufino Morales García	US\$5,000.00
Hilario Galeano	US\$5,000.00
Silvestre Galeano	US\$5,000.00
Bernardo Tecú González	US\$5,000.00
Victoria Tecú González	US\$5,000.00
Paulina Tecú González	US\$5,000.00
Paulina Guzmán	US\$5,000.00
Pedrina Soto Martínez	US\$5,000.00
Demetrio Soto Martínez	US\$5,000.00
Pedro Soto Martínez	US\$5,000.00
Isabel Soto Martínez	US\$5,000.00
Martina Soto Martínez	US\$5,000.00
Carmelina Soto Martínez	US\$5,000.00
Zoila Soto Martínez	US\$5,000.00
Sebelia Soto Martínez	US\$5,000.00
Rodolfo Soto Martínez	US\$5,000.00
Maruca Martínez García	US\$5,000.00
Ana María Tecú Morales	US\$5,000.00
Irena Tejada Orellana	US\$5,000.00
Odilia Tejada Orellana	US\$5,000.00
Telma Tejada Orellana	US\$5,000.00
Daniel Tejada Orellana	US\$5,000.00
Eulalio Tejada	US\$5,000.00
Mercedes Orellana García	US\$5,000.00
Salvador Manuel Jerónimo	US\$5,000.00
Pablo Grave Jerónimo	US\$5,000.00
Florencia Cajbón Jerónimo	US\$5,000.00
Hermenegildo Alvarado Raxcacó	US\$5,000.00
Lucas Juárez Ampérez	US\$5,000.00
Valeria Grave Cajbón	US\$5,000.00
Emiliano Cajbón Grave	US\$5,000.00
Jesús Cajbón Grave	US\$5,000.00
Santa Cajbón Manuel	US\$5,000.00

Bartolomé Cajbón Manuel	US\$5,000.00
Petronila Tecú Chajáj	US\$5,000.00
Celestino Chinchilla Guzmán	US\$5,000.00
María Aurelia Jerónimo Corazón	US\$5,000.00
Juan Cajbón	US\$5,000.00
Alejandro Cortéz Tecú	US\$5,000.00
Florencia Cortéz Tecú	US\$5,000.00
Cristina Cortéz Tecú	US\$5,000.00
Fidel Cortéz Tecú	US\$5,000.00
Efraín Cortéz Tecú	US\$5,000.00
Juana Cortéz Tecú	US\$5,000.00
Natividad Cortéz Tecú	US\$5,000.00
Justina Sánchez	US\$5,000.00
Justina Sánchez	US\$5,000.00
Demetrio Cajbón Galeano	US\$5,000.00
Francisco Rojas Ic	US\$5,000.00
Ramón Rojas Ic	US\$5,000.00
Humberto Rojas	US\$5,000.00
Humberto Rojas	US\$5,000.00
Domingo Ic Rojas	US\$5,000.00
Domingo Ic Rojas	US\$5,000.00
Leocadia Ic Rojas	US\$5,000.00
Salomé Ic Rojas	US\$5,000.00
Virgilio Ic Rojas	US\$5,000.00
Carlos Enrique Caballeros	US\$5,000.00
Froilán García Caballeros	US\$5,000.00
Domingo García Caballeros	US\$5,000.00
María García Caballeros	US\$5,000.00
Jesús Grave Tecú	US\$5,000.00
Valentina Grave Tecú	US\$5,000.00
Héctor Guzmán Alvarado	US\$5,000.00
Paulina Guzmán Alvarado	US\$5,000.00
Felipe Hernández Galeano	US\$5,000.00
Juana Hernández Galeano	US\$5,000.00
Ventura Hernández Galeano	US\$5,000.00
Elías Hernández Galeano	US\$5,000.00
Leocadia Rojas	US\$5,000.00
Ramón Rojas	US\$5,000.00
Salomé Rojas	US\$5,000.00
Virgilio Rojas	US\$5,000.00
Jerónimo Jerónimo Ixpatá	US\$5,000.00
Natividad Raxcacó Juárez	US\$5,000.00
Cecilio Raxcacó Juárez	US\$5,000.00
David Raxcacó Juárez	US\$5,000.00
Jesusa Raxcacó Juárez	US\$5,000.00
Pedro Raxcacó Juárez	US\$5,000.00

Rosa Raxcacó Juárez	US\$5,000.00
Rosa Raxcacó Juárez	US\$5,000.00
María Juárez Manuel	US\$5,000.00
Corazón Manuel Ampérez	US\$5,000.00
Abelino Juárez Grave	US\$5,000.00
Faustina Juárez Grave	US\$5,000.00
Juana Juárez Grave	US\$5,000.00
Juana Juárez Grave	US\$5,000.00
Leoncio Juárez Grave	US\$5,000.00
María Juárez Grave	US\$5,000.00
Paula Juárez Grave	US\$5,000.00
Julián Morales Jerónimo	US\$5,000.00
Pedro Morales Corazón	US\$5,000.00
Chabelo Morales Ivoy	US\$5,000.00
Miguel Ángel Morales Ivoy	US\$5,000.00
Viviana Morales Ivoy	US\$5,000.00
Andrés Morales Ivoy	US\$5,000.00
Bernardo Morales Ivoy	US\$5,000.00
Herlinda Morales Ivoy	US\$5,000.00
Emiliana Morales Ivoy	US\$5,000.00
Natividad Morales Ivoy	US\$5,000.00
Santos Morales Ivoy	US\$5,000.00
Pedrina Morales Xitumul	US\$5,000.00
José Bolaj Jerónimo	US\$5,000.00
Carlos Morales Pérez	US\$5,000.00
Antonio Pérez García	US\$5,000.00
Miguel Pérez García	US\$5,000.00
Enrique Sesám Tecú	US\$5,000.00
Pedro Sesám Tecú	US\$5,000.00
Serapio Sesám Tecú	US\$5,000.00
Dionisio Sesám Tecú	US\$5,000.00
Eustaquia Sesám Tecú	US\$5,000.00
Albertina Sesám Tecú	US\$5,000.00
Silveria Sesám Tecú	US\$5,000.00
Demetria Soto Tejeda	US\$5,000.00
Cipriano Soto Tejeda	US\$5,000.00
Irene Soto Tejeda	US\$5,000.00
Hilario Soto Tejeda	US\$5,000.00
Macario Soto Tejeda	US\$5,000.00
Cecilio Soto Tejeda	US\$5,000.00
Margarito Soto Tejeda	US\$5,000.00
Sabino Soto Tejeda	US\$5,000.00
Julián Tecú Chajáj	US\$5,000.00
Cecilio Tecú Chajáj	US\$5,000.00
Lorenza Tecú Chajáj	US\$5,000.00
Pedro Tecú Manuel	US\$5,000.00

Bartolomé Tecú Manuel	US\$5,000.00
Carlota Tecú Manuel	US\$5,000.00
Victoria Tecú Manuel	US\$5,000.00
María Antonia Tecú Morales	US\$5,000.00
Paulina Tecú Morales	US\$5,000.00
Gregorio Tejeda Orellana	US\$5,000.00
Bartolo Tejeda Orellana	US\$5,000.00
Isabel Tejeda Orellana	US\$5,000.00
Hilaria Tejeda Orellana	US\$5,000.00
Antonio Tejeda	US\$5,000.00
Everildo Tejeda	US\$5,000.00
Lázaro Alvarado Raxcacó	US\$5,000.00
TOTAL	US\$905,000.00

### C) NON-PECUNIARY DAMAGE

#### Arguments of the Commission

77. The Commission alleged that:

- a) The Inter-American Court was able to observe directly the depth and effects of the anguish caused to the survivors of the Plan de Sánchez massacre, who witnessed the horrifying events suffered by their loved ones. This anguish is permanent; it has led some of them to want to commit suicide, and produced permanent or recurring ailments in many members of the community;
- b) It must be borne in mind that the survivors of the massacre lived in terror during the years they survived in the wilds watching their abandoned land and fleeing from the persecution of the State agents. It should also be taken into account that the survivors continued to be subjected to threats and discrimination, were forced to live in other villages, and obliged to patrol with those who had killed their next of kin;
- c) In the case of the next of kin of those executed in the massacre, the “non-pecuniary damage” includes the suffering resulting from the death of the loved one and the indignity of the burial that was not performed in keeping with Mayan customs. This suffering is increased when “several individuals from the same family are murdered at the same time”;
- d) Owing to the time that has elapsed, and also the nature and magnitude of the damage caused, it is not possible to make full restitution. Consequently, the Court should establish, in fairness, the payment of a sum of money for “non-pecuniary damage” arising from the suffering, anguish and indignity to which each of the survivors of the massacre was subjected. Also, the State should be ordered to pay the next of kin of those extrajudicially executed a figure that, in fairness, is decided for this concept. Regarding the amount of the compensation, the Commission referred to the request made by the representatives;
- e) The grief and the consequences of the situations that the survivors and the next of kin of those executed in the massacre had to endure go beyond the individual sphere and affect the family and the community fabric. The psychosocial damage caused by the events included the following: a) fragmentation of the community; b) destruction of family roles; c) loss of the community’s cultural identity and cultural vacuum owing to the death of the women and the



elderly; d) impairment of the memory and dignity of women as the group's transmitters and procreators; e) changes in the community mourning patterns; f) substitution of traditional norms and values by military norms and authorities, and alteration of the traditional community social fabric, and g) deterioration of the community's relations of trust, and

f) The damage to the community life project is aggravated by the absence of justice, acknowledgement of the damage suffered, remembrance of the victims, and compensation. The Guatemalan courts of justice have not identified, prosecuted or sentenced the perpetrators and masterminds of the massacre, and this continues to harm not only the survivors and the next of kin of the victims but all Mayan people.

#### Arguments of the representatives

78. The victims' representatives argued that:

a) Once the alleged human rights violations have been proved, it must be presumed that "non-pecuniary damage" was caused, and it is the State's obligation to repair this. Nevertheless, in this case, the "non-pecuniary" damage has been sufficiently proved with the testimonies and the expert reports that form part of the body of evidence;

b) Compensation for "non-pecuniary damage" should result in restitutio in integrum of the damage suffered by the violation of Articles 1(1), 5(1), 5(2), 8(1), 11, 12(2), 12(3), 13(2), 13(3), 13(5), 16(1), 21(1), 21(2), 24 and 25 of the American Convention;

c) Those who survived the massacre show symptoms of avoidance, hyper-watchfulness with sleep alterations, and accesses of anger towards their family, feelings of guilt, alteration of mourning patterns, and ailments that are probably psychosomatic in origin. These symptoms have deteriorated their quality of life at the individual, family, social and work levels, because they do not permit the normal development of their social and work activities, their family relationships, and their individual growth;

d) The levels of suffering, anguish and frustration caused by the impunity in which the massacre remains are factors that demonstrate the "non-pecuniary damage" suffered by the spouses and children of those executed, and also their parents and siblings. Moreover, given the closeness of relationships in the indigenous communities and that, in most cases, the families live in the same house or in houses that are very close to each other, which results in very close relationships, the spouses and children should be considered close family and, consequently, victims with a right to receive reparations. The Court should establish compensation of US\$30,000.00 (thirty thousand United States dollars) for those who suffered "non-pecuniary" damage, owing to the impunity in which the murder of their next of kin remains;

e) With regard to those who did not lose next of kin, but who also suffered owing to the denial of justice, the Court should establish the sum of US\$30,000.00 (thirty thousand United States dollars) for each survivor. Also, for all the violations of Articles 11, 12(2), 12(3), 13(2), 13(3) and 13(5), 16(1), 21(1), 21(2) and 24 of the American Convention, they requested that the Court should establish the sum of US\$25,000.00 (twenty-five thousand United States dollars) for each survivor and next of kin of those executed in the massacre, considering that the militarization of the country and the constant threat to the survivors, made it impossible for them to exercise their rights;

f) Given the change of lifestyle that the survivors and next of kin of those executed in the massacre suffered for many years, and the destruction of the social fabric of the Mayan

community, which took a long time to recover, the Court should establish an amount, in fairness, for each survivor for damage to their life project;

g) The events destroyed the community life project of Plan de Sánchez. Some members of the community were prevented from completing their studies and a whole generation that would have been educated was eliminated. It is therefore necessary to provide the Plan de Sánchez community with a comprehensive educational institute that benefits all the communities affected by the massacre. The State should also offer all the descendants of the survivors of the massacre grants to study in the comprehensive school and at university that include funds for transport, accommodation and living expenses, and

h) The Court should order the State to set up a survivor identification committee in order to identify all those who have a right to reparation; and establish an adequate reserve fund so that, once they have been identified, it contains US\$11,204,530.00 (eleven million two hundred and four thousand five hundred and thirty United States dollars) to pay the amounts that the Court orders for pecuniary and non-pecuniary damage to the beneficiaries in the judgment.

### Arguments of the State

79. The State indicated that:

a) It cannot deny the need to compensate the “non-pecuniary” and pecuniary damage caused to the victims and next of kin of the Plan de Sánchez village, which are irreparable;

b) The process of paying financial reparation should begin in 2005, so that it is duly programmed and planned in the 2005 General Budget of Income and Expenditure of the Nation. In complying with this process, the magnitude of the needs and rights that the State must guarantee to all its inhabitants must be taken into account, and also the criteria established by the Court, in the sense that the amount of the reparations should not make the victims or their successors either richer or poorer; and

c) The financial reparations decided must be executed within the framework of the National Compensation Program, in accordance with the rules of domestic legislation. Article 1 of Government Agreement No. 258-2003 of the President of the Republic, published in the official gazette on May 8, 2003, stipulates that the specific purpose of the program is “to compensate the victims of human rights violations that took place during the internal armed conflict.” It has also been established that the beneficiaries of the program include those resulting from cases that were submitted to the Inter-American Commission prior to the plan, and that are pending a ruling.

### Considerations of the Court

80. Non-pecuniary damage can include the suffering and hardship caused to the direct victims and to their next of kin, the harm of objects of value that are very significant to the individual, and also changes, of a non-pecuniary nature, in the living conditions of the victims. Since it is not possible to allocate a precise monetary equivalent to non-pecuniary damage, it can only be compensated in two ways in order to make integral reparation to the victims. First, by the payment of a sum of money that the Court decides by the reasonable exercise of judicial discretion and in terms of fairness. Second, by performing acts or implementing projects with public recognition or repercussion, such as broadcasting a message that officially condemns the

human rights violations in question and makes a commitment to efforts designed to ensure that it does not happen again. Such acts have the effect of restoring the memory of the victims, acknowledging their dignity, and consoling their next of kin. The first aspect of reparation for non-pecuniary damage will be considered in this section and the second in section (D) of this chapter. [FN257]

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[FN257] Cf. Case of Tibi, *supra* note 3, para. 242; Case of the “Juvenile Reeducation Institute”, *supra* note 3, para. 295, and Case of Ricardo Canese, *supra* note 3, para. 204.

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81. International case law has established repeatedly that the judgment constitutes, *per se*, a form of reparation. [FN258] However, in the judgment on merits delivered on April 29, 2004, this Court established that events such as those of the instant case, “which gravely affected the identity and values of the members of the Maya-Achí people, and which took place in the context of a pattern of massacres, had an aggravated impact that entails the State’s international responsibility,” [FN259] and it takes this into account when deciding reparations.

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[FN258] Cf. Case of Tibi, *supra* note 3, para. 243; Case of the “Juvenile Reeducation Institute”, *supra* note 3, para. 299, and Case of Ricardo Canese, *supra* note 3, para. 205.

[FN259] Case of the Plan de Sánchez Massacre, *supra* note 17, para. 51.

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82. The CEH Report established that:

During the armed conflict, events took place that impaired the existence of the Mayan people owing to the attacks on their integrity and identity. The violations had a cumulative effect. For example, the deprivation of certain economic activities or the dispossession of land affected not only the food supply and the physical conditions of subsistence, but also the cultural references which underlie the collective identity, the accumulated knowledge and techniques, the system of social relations and family relationships, the sacred conception of the land, the religious rites of reciprocity and payment to nature. And vice versa: the violation of the cultural rights, the repression of the culture and the symbols of identity, the prohibition to perform religious rites or ceremonies, impeded the reproduction of social relations, the formation of family relationships, the facilitation of financial practices, and fragmented the sense of belonging to a group. [FN260]

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[FN260] CEH Report, *supra* note 238, tome III, p. 181, paras. 2887 and 2888.

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83. Indeed, owing to the gravity of the facts of the instant case and the situation of impunity in which they remain, the intensity of the suffering caused to the victims, the alterations in their living conditions, and the other consequences of a non-material or non-pecuniary nature, the Court considers it necessary to order the payment of compensation for non-pecuniary damage, in fairness. [FN261]

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[FN261] Case of Tibi, supra note 3, para. 243; Case of the “Juvenile Reeducation Institute”, supra note 3, para. 299, and Case of Ricardo Canese, supra note 3, para. 205.  
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84. When assessing the non-pecuniary damage caused in the case sub judice, the Court has taken into consideration the words of Benjamín Manuel Jerónimo and Eulalio Grave Ramírez in their statements made before notary public (supra para. 32(a) and 32(b)), and of Juan Manuel Jerónimo, Buenaventura Manuel Jerónimo and Narcisa Corazón Jerónimo in their testimonies given before this Court during the public hearing (supra para. 38(a), 38(b) and 38(c)), when they said that the damage caused to them was representative of that caused to the other victims, most of whom belong to the Maya-Achí people. The Court has also taken into account the words of Luis Rodolfo Ramírez García and José Fernando Moscoso in their statements before notary public (supra para. 32(c) and 32(d)), and the expert reports of Augusto Willemsen-Díaz and Nieves Gómez Dupuis (supra para. 38(d) and 38(e)), given before this Court during the public hearing.

85. The Court observes that, in the instant case, the victims belonging to the Mayan indigenous people, of the Achí linguistic community, possess their own traditional authorities and forms of community organization, centered on consensus and respect. They have their own social, economic and cultural structures. For the members of these communities, harmony with the environment is expressed by their spiritual relationship with the land, the way they manage their resources and a profound respect for nature. Traditions, rites and customs have an essential place in their community life. Their spirituality is reflected in the close relationship between the living and the dead, and is expressed, based on burial rites, as a form of permanent contact and solidarity with their ancestors. The transmission of culture and knowledge is one of the roles assigned to the elders and the women.

86. Given that the victims in this case are members of the Mayan people, this Court considers that an important component of the individual reparation is the reparation that the Court will now grant to the members of the community as a whole.

87. Bearing in mind the above, and also the different aspects of the damage adduced by the Commission and by the representatives, the Court establishes in fairness the value of the compensation for non-pecuniary damage, which must be delivered to each of the victims, as stipulated in the tables contained in paragraphs 88(a) and (b) and 89(a) and (b) of this judgment, and in accordance with the following parameters:

a) It must be taken into consideration that the victims were unable to bury appropriately their next of kin who had been executed in the massacre or practice funeral rites in accordance with their traditions. And, it is necessary to recall the special significance for the Mayan culture, and particularly the Maya-Achí culture, of the funeral rites, and the magnitude of the damage caused to the victims because these rites were not respected. Moreover, it has been proved that, owing to the conditions of decomposition and calcination in which the remains were found after

the exhumations conducted in 1994 and 1996, only a few victims could bury their next of kin and perform the corresponding ceremonies (supra para. 49(3), 49(6), 49(7), 49(13) and 49(14));

b) It must also be recalled that the victims in this case could not freely celebrate ceremonies, rites and other traditional manifestations for some time, which affected the reproduction and transmission of their culture. It has been proved that the death of the women and the elders, oral transmitters of the Maya-Achí culture, caused a cultural vacuum (supra para. 49(12) and 49(13));

c) The damage caused to the victims by the permanent military presence, surveillance and repression to which they were subjected should be taken into account. It has also been established that the victims were forced to patrol with the perpetrators and to come in contact with them in the town's common areas. The victims were stigmatized, pointed out as "guerrillas" and, as such, responsible for the events. All the foregoing resulted in the victims feeling terror, paralysis, insecurity, frustration, humiliation, guilt and anguish, which has significantly altered their living conditions and their family and community relationships (supra para. 49(15) and 49(17));

d) The non-pecuniary damage caused to the members of the Plan de Sánchez community owing to the militarization of the village must be borne in mind. It has been proved that the traditional community structure of Plan de Sánchez was substituted by a vertical, militaristic control system, in which the natural leaders of the community could not perform their role and were replaced by the military authorities (supra para. 49(16));

e) It must be considered that the facts of this case remain unpunished, which has caused the victims frustration, impotence and profound anguish. It has been proved that the victims remained in complete silence, without being able to speak or report what had happened for almost ten years. Since the complaint was filed in December 1992, the criminal proceedings have been characterized by the delay in the investigation and the negligence of the Attorney General's office (supra para. 49(6), 49(8), 49(9), 49(18) and 49(19));

f) It must be borne in mind that the discrimination to which the victims have been subjected has affected their possibilities of access to justice, which has caused them to feel excluded and undervalued (supra para. 49(18)), and

g) It must also be taken into account that, as a result of the facts, the physical and mental health of the victims has been affected and requires care and treatment (supra para. 49(17)).

88. Based on the above, the Court establishes, in fairness, for non-pecuniary damage, the sum of US\$20,000.00 (twenty thousand United States dollars) or its equivalent in national currency, for each of the victims indicated in subparagraphs (a) and (b) of this paragraph, in accordance with paragraphs 64 and 65 of this judgment. The compensation for the non-pecuniary damage caused by the violations declared in this case, in favor of the victims who have been identified is as follows:

a) From the Plan de Sánchez community

Surviving victims	Non-pecuniary damage
Carmen Corazón Jerónimo	US\$20,000.00
Narcisa Corazón Jerónimo	US\$20,000.00
Margarita Grave Cajbón	US\$20,000.00
Tomás Grave Cajbón	US\$20,000.00
Valerio Grave Cajbón	US\$20,000.00

Eulalio Grave Ramírez	US\$20,000.00
Benjamín Manuel Jerónimo	US\$20,000.00
Juan Manuel Jerónimo	US\$20,000.00
Esteban Manuel Jerónimo	US\$20,000.00
Buenaventura Manuel Jerónimo	US\$20,000.00
Plácido Jerónimo Grave	US\$20,000.00
Margarita Ivoy	US\$20,000.00
Salvador Jerónimo Sánchez	US\$20,000.00
Juan Grave Ramírez	US\$20,000.00
Andrea Ramírez	US\$20,000.00
Tomás Jerónimo Sánchez	US\$20,000.00
María Cristina Reyes Álvarez	US\$20,000.00
Jorge Luis Reyes Álvarez	US\$20,000.00
César Augusto Reyes Álvarez	US\$20,000.00
Juan Álvarez Pérez	US\$20,000.00
Alejandro Grave Oxlañ	US\$20,000.00
Francisca Juárez Manuel	US\$20,000.00
Juliana Rojas	US\$20,000.00
Adrián Cajbón Jerónimo	US\$20,000.00
Emiliana Grave.	US\$20,000.00
Eugenia Ivoy.	US\$20,000.00
Guadalupe Cajbón Jerónimo	US\$20,000.00
Luis Cajbón Oxlañ	US\$20,000.00
Prudencia Cajbón Jerónimo	US\$20,000.00
Juan Cajbón Corazón	US\$20,000.00
Ezequiel Grave Oxlañ	US\$20,000.00
Andrés Grave Valey	US\$20,000.00
Faustina Cojóm Manuel	US\$20,000.00
TOTAL	US\$660,000.00

b) From the other communities

Surviving victims	Non-pecuniary damage
Patricia Álvarez Alvarado	US\$20,000.00
Leticia Álvarez Alvarado	US\$20,000.00
Lucrecia Álvarez Alvarado	US\$20,000.00
Silvia Álvarez Alvarado	US\$20,000.00
Felisa o Feliciano Padilla	US\$20,000.00
Juan Álvarez Pérez	US\$20,000.00
Margarita Osorio Manuel	US\$20,000.00
Pablo Grave Cajbón	US\$20,000.00
Pedro Grave Cajbón	US\$20,000.00
Tomás Cajbón Manuel	US\$20,000.00
Domingo Cajbón Manuel	US\$20,000.00
Gregoria Tecú Chajáj	US\$20,000.00
Juana Tecú Chajáj	US\$20,000.00

Toribio Tecú Chajáj	US\$20,000.00
Felisa Tecú Chajáj	US\$20,000.00
Alberto Morales Iboy	US\$20,000.00
Eugenia Morales Iboy	US\$20,000.00
Carlos Rafael Jerónimo Sánchez	US\$20,000.00
Hermenegildo Jerónimo Sánchez	US\$20,000.00
María Rogelia Jerónimo Corazón	US\$20,000.00
Tomasa Jerónimo Corazón	US\$20,000.00
Pablo García Pérez	US\$20,000.00
María García Pérez	US\$20,000.00
Josefina García Pérez	US\$20,000.00
Maribel García Pérez	US\$20,000.00
Mario García Pérez	US\$20,000.00
Cornelio García Pérez	US\$20,000.00
María Hernández Galeano	US\$20,000.00
Jesús Hernández González	US\$20,000.00
Vicente Orellana Morales	US\$20,000.00
Miguel Orellana Morales	US\$20,000.00
Gumerindo Orellana Morales	US\$20,000.00
Margarita Morales Pérez	US\$20,000.00
Juan Morales Pérez	US\$20,000.00
César Augusto Morales Pérez	US\$20,000.00
Inés Pérez García	US\$20,000.00
Celestino Morales Pérez	US\$20,000.00
Sarvelio Morales Pérez	US\$20,000.00
Bernarda Morales Pérez	US\$20,000.00
Aura Marina Morales Pérez	US\$20,000.00
Raúl Morales Pérez	US\$20,000.00
Angélica Morales Pérez	US\$20,000.00
Daniel Tecú Manuel	US\$20,000.00
María Herlinda Tecú Manuel	US\$20,000.00
María Marta Manuel Tecú	US\$20,000.00
María Modesta Hernández Ic	US\$20,000.00
Jacinto Ic Sesám	US\$20,000.00
Antonia Manuel Sis	US\$20,000.00
Francisco García López	US\$20,000.00
Ricarda García López	US\$20,000.00
Santos García Morales	US\$20,000.00
Carmen Tejeda Orellana	US\$20,000.00
Fermina Reyes Reyes	US\$20,000.00
Lucía Raxcacó Sesám	US\$20,000.00
Domingo Raxcacó Sesám	US\$20,000.00
Teresa Tecú	US\$20,000.00
Víctor Morales Alvarado	US\$20,000.00
Jerónimo Morales Alvarado	US\$20,000.00
María Concepción Morales Alvarado	US\$20,000.00

Nicolasa Ixtecoc	US\$20,000.00
José Morales Juárez	US\$20,000.00
María Morales Juárez	US\$20,000.00
Pedrina Morales Juárez	US\$20,000.00
Gregoria Jerónimo Ixpatá	US\$20,000.00
Darío López Juárez	US\$20,000.00
Emiliana López Juárez	US\$20,000.00
Julia López Juárez	US\$20,000.00
Toribio Morales Jerónimo	US\$20,000.00
María Griselda Reyes Mejicanos	US\$20,000.00
Alvaro Rocael Reyes Mejicanos	US\$20,000.00
Lázaro o Pedro Alvarado Manuel	US\$20,000.00
Julia Manuel	US\$20,000.00
Julia Raxcacó Manuel	US\$20,000.00
Balbino Cajbón Cortéz	US\$20,000.00
Paulina Grave Oxlaj	US\$20,000.00
Emiliana Grave López	US\$20,000.00
Francisco Cortéz Xitumul	US\$20,000.00
Juliana Tecú Grave	US\$20,000.00
Juan Galeano	US\$20,000.00
Rosario Galeano	US\$20,000.00
Julia o Juliana Juárez	US\$20,000.00
Simeona Corazón Galeano	US\$20,000.00
Catalina Galeano	US\$20,000.00
Francisca Caballeros	US\$20,000.00
Pablo Guzmán Reyes	US\$20,000.00
María de Jesús Alvarado	US\$20,000.00
Zuleta Soto Tejada	US\$20,000.00
Ricardo Tecú Manuel	US\$20,000.00
Natividad Morales	US\$20,000.00
Sabina Tejada	US\$20,000.00
Héctor Manuel García Mejicanos	US\$20,000.00
TOTAL	US\$1,820,000.00

89. The Court also establishes, in fairness, for non-pecuniary damage, the sum of US\$20,000.00 (twenty thousand United States dollars) or its equivalent in national currency, for each of the victims indicated in subparagraph (a) and (b) of this paragraph, with regard to those for whom no appropriate identification document was remitted. This amount shall be delivered to the victims in accordance with paragraphs 64, 65 and 67 of this judgment.

a) From the Plan de Sánchez community

Surviving victims	Non-pecuniary damage
Guillermo Toj Manuel	US\$20,000.00
Guillermo Toj Manuel	US\$20,000.00
Juana Álvarez Pérez	US\$20,000.00



Jorge Álvarez Pérez	US\$20,000.00
Víctor Manuel Reyes García	US\$20,000.00
Lorenza Cajbón Grave	US\$20,000.00
José María Cajbón Grave	US\$20,000.00
Emilia o Emiliana Cajbón Grave	US\$20,000.00
Alejandro Grave	US\$20,000.00
Enrique Cajbón Jerónimo	US\$20,000.00
Francisca Galeano Galeano	US\$20,000.00
Plácido Jerónimo Grave	US\$20,000.00
TOTAL	US\$240,000.00

b) From the other communities

Surviving victims	Non-pecuniary damage
Felipe Antonio Álvarez Alvarado	US\$20,000.00
Basilio Tecú Chajáj	US\$20,000.00
July Tecú Chajáj	US\$20,000.00
Modesta Hernández	US\$20,000.00
Eduviges Orellana Morales	US\$20,000.00
Julián Morales Pérez	US\$20,000.00
María del Carmen Morales Pérez	US\$20,000.00
Lauro García Morales	US\$20,000.00
Inocenta Morales López	US\$20,000.00
Bairon Eduardo Tejeda Reyes	US\$20,000.00
Delvin Donald Tejeda Reyes	US\$20,000.00
Víctor Aníbal Tejeda Reyes	US\$20,000.00
María Elena Tejeda Reyes	US\$20,000.00
Pedro Raxcacó Sesám	US\$20,000.00
Rufino Raxcacó Sesám	US\$20,000.00
Catalina Raxcacó Sesám	US\$20,000.00
Dolores Morales Alvarado	US\$20,000.00
José León Alvarado	US\$20,000.00
Alberto Morales Juárez	US\$20,000.00
Francisco Morales Juárez	US\$20,000.00
Juana Morales Juárez	US\$20,000.00
María Juliana Morales Juárez	US\$20,000.00
Ceferino Jerónimo Ixpatá	US\$20,000.00
Rosa Jerónimo Ixpatá	US\$20,000.00
Juana Jerónimo Ixpatá	US\$20,000.00
Pablo Jerónimo Ixpatá	US\$20,000.00
Roberto Jerónimo Ixpatá	US\$20,000.00
Regina López Juárez	US\$20,000.00
Roberta López Juárez	US\$20,000.00
Eustaquio Morales Jerónimo	US\$20,000.00
Bernardino Morales Jerónimo	US\$20,000.00
Pedrina Reyes Mejicanos	US\$20,000.00

Hermelinda Reyes Mejicanos	US\$20,000.00
Rogelia Reyes Mejicanos	US\$20,000.00
Jesús Reyes Mejicanos	US\$20,000.00
Angela Juárez Chen	US\$20,000.00
Manuel Ampérez Corazón	US\$20,000.00
Albino Cajbón	US\$20,000.00
Marta Galeano	US\$20,000.00
Celestino Morales García	US\$20,000.00
Benedicto Morales García	US\$20,000.00
Florentino Morales García	US\$20,000.00
Hermelinda Morales García	US\$20,000.00
Pedrina Morales García	US\$20,000.00
Rufino Morales García	US\$20,000.00
Hilario Galeano	US\$20,000.00
Silvestre Galeano	US\$20,000.00
Bernardo Tecú González	US\$20,000.00
Victoria Tecú González	US\$20,000.00
Paulina Tecú González	US\$20,000.00
Paulina Guzmán	US\$20,000.00
Pedrina Soto Martínez	US\$20,000.00
Demetrio Soto Martínez	US\$20,000.00
Pedro Soto Martínez	US\$20,000.00
Isabel Soto Martínez	US\$20,000.00
Martina Soto Martínez	US\$20,000.00
Carmelina Soto Martínez	US\$20,000.00
Zoila Soto Martínez	US\$20,000.00
Sebelia Soto Martínez	US\$20,000.00
Rodolfo Soto Martínez	US\$20,000.00
Maruca Martínez García	US\$20,000.00
Ana María Tecú Morales	US\$20,000.00
Irena Tejada Orellana	US\$20,000.00
Odilia Tejada Orellana	US\$20,000.00
Telma Tejada Orellana	US\$20,000.00
Daniel Tejada Orellana	US\$20,000.00
Eulalio Tejada	US\$20,000.00
Mercedes Orellana García	US\$20,000.00
Salvador Manuel Jerónimo	US\$20,000.00
Pablo Grave Jerónimo	US\$20,000.00
Florencia Cajbón Jerónimo	US\$20,000.00
Hermenegildo Alvarado Raxcacó	US\$20,000.00
Lucas Juárez Ampérez	US\$20,000.00
Valeria Grave Cajbón	US\$20,000.00
Emiliano Cajbón Grave	US\$20,000.00
Jesús Cajbón Grave	US\$20,000.00
Santa Cajbón Manuel	US\$20,000.00
Bartolomé Cajbón Manuel	US\$20,000.00

Petronila Tecú Chajáj	US\$20,000.00
Celestino Chinchilla Guzmán	US\$20,000.00
María Aurelia Jerónimo Corazón	US\$20,000.00
Juan Cajbón	US\$20,000.00
Alejandro Cortéz Tecú	US\$20,000.00
Florencia Cortéz Tecú	US\$20,000.00
Cristina Cortéz Tecú	US\$20,000.00
Fidel Cortéz Tecú	US\$20,000.00
Efraín Cortéz Tecú	US\$20,000.00
Juana Cortéz Tecú	US\$20,000.00
Natividad Cortéz Tecú	US\$20,000.00
Justina Sánchez	US\$20,000.00
Justina Sánchez	US\$20,000.00
Demetrio Cajbón Galeano	US\$20,000.00
Francisco Rojas Ic	US\$20,000.00
Ramón Rojas Ic	US\$20,000.00
Humberto Rojas	US\$20,000.00
Humberto Rojas	US\$20,000.00
Domingo Ic Rojas	US\$20,000.00
Domingo Ic Rojas	US\$20,000.00
Leocadia Ic Rojas	US\$20,000.00
Salomé Ic Rojas	US\$20,000.00
Virgilio Ic Rojas	US\$20,000.00
Carlos Enrique Caballeros	US\$20,000.00
Froilán García Caballeros	US\$20,000.00
Domingo García Caballeros	US\$20,000.00
María García Caballeros	US\$20,000.00
Jesús Grave Tecú	US\$20,000.00
Valentina Grave Tecú	US\$20,000.00
Héctor Guzmán Alvarado	US\$20,000.00
Paulina Guzmán Alvarado	US\$20,000.00
Felipe Hernández Galeano	US\$20,000.00
Juana Hernández Galeano	US\$20,000.00
Ventura Hernández Galeano	US\$20,000.00
Elías Hernández Galeano	US\$20,000.00
Leocadia Rojas	US\$20,000.00
Ramón Rojas	US\$20,000.00
Salomé Rojas	US\$20,000.00
Virgilio Rojas	US\$20,000.00
Jerónimo Jerónimo Ixpatá	US\$20,000.00
Natividad Raxcacó Juárez	US\$20,000.00
Cecilio Raxcacó Juárez	US\$20,000.00
David Raxcacó Juárez	US\$20,000.00
Jesusa Raxcacó Juárez	US\$20,000.00
Pedro Raxcacó Juárez	US\$20,000.00
Rosa Raxcacó Juárez	US\$20,000.00

Rosa Raxcacó Juárez	US\$20,000.00
María Juárez Manuel	US\$20,000.00
Corazón Manuel Ampérez	US\$20,000.00
Abelino Juárez Grave	US\$20,000.00
Faustina Juárez Grave	US\$20,000.00
Juana Juárez Grave	US\$20,000.00
Juana Juárez Grave	US\$20,000.00
Leoncio Juárez Grave	US\$20,000.00
María Juárez Grave	US\$20,000.00
Paula Juárez Grave	US\$20,000.00
Julián Morales Jerónimo	US\$20,000.00
Pedro Morales Corazón	US\$20,000.00
Chabelo Morales Ivoy	US\$20,000.00
Miguel Ángel Morales Ivoy	US\$20,000.00
Viviana Morales Ivoy	US\$20,000.00
Andrés Morales Ivoy	US\$20,000.00
Bernardo Morales Ivoy	US\$20,000.00
Herlinda Morales Ivoy	US\$20,000.00
Emiliana Morales Ivoy	US\$20,000.00
Natividad Morales Ivoy	US\$20,000.00
Santos Morales Ivoy	US\$20,000.00
Pedrina Morales Xitumul	US\$20,000.00
José Bolaj Jerónimo	US\$20,000.00
Carlos Morales Pérez	US\$20,000.00
Antonio Pérez García	US\$20,000.00
Miguel Pérez García	US\$20,000.00
Enrique Sesám Tecú	US\$20,000.00
Pedro Sesám Tecú	US\$20,000.00
Serapio Sesám Tecú	US\$20,000.00
Dionisio Sesám Tecú	US\$20,000.00
Eustaquia Sesám Tecú	US\$20,000.00
Albertina Sesám Tecú	US\$20,000.00
Silveria Sesám Tecú	US\$20,000.00
Demetria Soto Tejeda	US\$20,000.00
Cipriano Soto Tejeda	US\$20,000.00
Irene Soto Tejeda	US\$20,000.00
Hilario Soto Tejeda	US\$20,000.00
Macario Soto Tejeda	US\$20,000.00
Cecilio Soto Tejeda	US\$20,000.00
Margarito Soto Tejeda	US\$20,000.00
Sabino Soto Tejeda	US\$20,000.00
Julián Tecú Chajáj	US\$20,000.00
Cecilio Tecú Chajáj	US\$20,000.00
Lorenza Tecú Chajáj	US\$20,000.00
Pedro Tecú Manuel	US\$20,000.00
Bartolomé Tecú Manuel	US\$20,000.00

Carlota Tecú Manuel	US\$20,000.00
Victoria Tecú Manuel	US\$20,000.00
María Antonia Tecú Morales	US\$20,000.00
Paulina Tecú Morales	US\$20,000.00
Gregorio Tejeda Orellana	US\$20,000.00
Bartolo Tejeda Orellana	US\$20,000.00
Isabel Tejeda Orellana	US\$20,000.00
Hilaria Tejeda Orellana	US\$20,000.00
Antonio Tejeda	US\$20,000.00
Everildo Tejeda	US\$20,000.00
Lázaro Alvarado Raxcacó	US\$20,000.00
TOTAL	US\$3,620,000.00

#### D) OTHER FORMS OF REPARATION

##### Arguments of the Commission

90. The Commission indicated that:

- a) The measures of reparation to try and eradicate the effects of the violations committed by the State can only be determined from a collective perspective, based on an understanding of the socio-cultural characteristics of the Mayan people, such as their cosmovision, spirituality and community social structure, and recognizing the magnitude of the genocidal acts committed against them;
- b) As a measure of satisfaction, the acknowledgement of international responsibility made by the State during the public hearing held before the Court should be publicized and its scope and consequences should be explained by a high-ranking State official in the Plan de Sánchez community;
- c) The Court should order the State to apologize to the next of kin of the victims of Plan de Sánchez, and this apology should be transmitted directly to all the members of the community in their village by a high-ranking State official;
- d) The Plan de Sánchez community, and Guatemalan society in general, were victims of the cloak of silence and disinformation that was spread as a result of the violence and “institutionalized terror.” This practice created an environment of distrust among the members of the Plan de Sánchez community, modifying their community customs and fostering isolation. Accordingly, one measure of reparation should be addressed at publicizing what happened, and raising the awareness of the Guatemalan people, by a “wide-reaching, precise and exact dissemination” of the facts;
- e) For the members of the Plan de Sánchez community, justice is crucial for reconciliation, rebuilding of the social fabric, and the process of dignifying the Mayan people, to whom it has systematically been denied for racist reasons. In this regard, ensuring the right to truth and the criminal sentencing of the perpetrators and masterminds of the massacre are essential measures to guarantee that such atrocious events never occur again;
- f) The State should open an effective investigation into the facts, and prosecute and punish those responsible for the massacre in Plan de Sánchez. It is important that the Court order the Guatemalan authorities to overcome the obstacles that have prevented the identification of those

responsible; in particular, the refusal of the public authorities, such as the Ministry of Defense, to collaborate with the investigation and provide all the information required by the judicial authorities;

g) The damage caused to the Mayan communities by the execution of hundreds of women and elderly people, natural oral transmitters of tradition, is almost irreparable. Hence, the State should adopt rehabilitation measures addressed at strengthening the transmission of Mayan culture; in this regard, local policies for disseminating community traditions should be implemented;

h) Among the rehabilitation measures, the State should establish family and community health programs; at the local level, these must be culturally sensitive, incorporating components of the Mayan cosmovision;

i) The Court should order the State to formulate plans to assist the recovery, rehabilitation and full reincorporation into the community of the women who were victims of rape, in conjunction with the women leaders of the community and mental health professionals;

j) Other measures of reparation that would benefit the Plan de Sánchez community could include: construction, equipping and operation of a school, supply of potable water, paving of roads, and implementation of productive projects;

k) Considering the large-scale violation of rights resulting from the massacre, the State should be asked to order that a reparation fund be set up for the victims of the massacre. The purpose of the fund would be to finance different programs in the areas of education, vocational training, psychological and medical care for the survivors and next of kin of the victims. The Court should establish an amount, in fairness, and

l) All the initiatives designed to make reparation to the victims of the massacre should be implemented in consultation with the members of the community.

#### Arguments of the representatives

91. The victims' representatives indicated that:

a) Owing to impact of the Plan de Sánchez massacre on the municipality of Rabinal, non-pecuniary reparation should be made at the community level. The beneficiaries of community psychosocial reparation are the survivors of the massacre, and also the second and subsequent generations. The purpose of the psychosocial reparation is to recover the historical memory, dignify the next of kin who died in the massacre and provide elements that ensure that no more human rights violations occur. To achieve these objectives, they proposed that the Court should order the State:

i) To establish a training program for 50 teachers a year on issues relating to the psychosocial effects of the political violence in Guatemala, for a period of four years. The program can be implemented by the non-governmental organization, Equipo de Estudios Comunitarios y Acción Psicosocial [Community Studies and Psychosocial Action Team], accompanied by two psychology professionals from the Health Ministry;

ii) To establish a two-year training and awareness-raising program on the effects of the political violence in Guatemala and its repercussions on the physical and mental health of the population, for health personnel from the Rabinal municipal Health Center and from other centers attached to it, who work in the communities of the municipality;

iii) To declare September 15 the official date for commemorating the victims of the municipality of Rabinal, because the first massacre in this municipality took place on that date. The municipality should allocate a budget envelope for the commemoration of this day, and

iv) To allocate part of the budget to the community of Plan de Sánchez, for commemorating July 18, 1982, the day of the massacre.

b) At the family and individual level, the Health Ministry should implement a three-year mental health program, to which it should appoint two full-time psychologists and a part-time psychiatrist. The Community Studies and Psychosocial Action Team could be in charge of training these three individuals. The beneficiaries of this program will be the survivors of the massacre, the next of kin, and the neighbors, whose mental health has been affected by the Plan de Sánchez massacre and subsequent events. The psychosocial care would consist of self-help groups of 25 individuals from each of the communities affected by massacres; workshops with youths from the communities; home visits to those who take part in the self-help groups; individual psychological treatment for 30 individuals from the communities affected by the massacre; medical treatment to avoid physical ailments due to psychosomatic disorders, and targeted individual psychological treatment for the women who were raped;

c) The people of the municipality of Rabinal, who are mostly Maya-Achí, were the direct victims of genocidal acts during the internal armed conflict. Consequently, the Court should order the State to erect a monument in the central square of Rabinal, in memory of all the Maya-Achí victims of the municipality. The form and significance of the monument should be consulted previously with the municipality's civil society organizations so that it meets their expectations;

d) The State should create a place of recreation, on the site where the Rabinal military detachment was located, and discuss its "form and symbolism" with civil society. Since the community museum is requesting this site for its premises, the State should provide financial support to this initiative;

e) The State should immediately provide the National Compensation Plan and the National Commission against Racism and Discrimination with the resources needed to allow them to carry out their mandates;

f) The State should make a public apology, through the Constitutional President of the Republic, Oscar Berger Perdomo, for this massacre and the others that took place during the internal armed conflict;

g) The State should produce a video on the facts of the Plan de Sánchez massacre, the displacement of the survivors, the destruction of the social fabric, the psychosocial impact of impunity, the quest for compensation, the recovery of the historical memory, the dignification of the dead, the authorship of the acts, and the historical record to understand why it happened;

h) The State should conduct a thorough investigation into the facts, and prosecute and punish those responsible. An initial measure towards this end, would be to strengthen the office of the Special Cases Prosecutor; this office is responsible for preparing a trial for the crime of genocide in Guatemala, which includes the Plan de Sánchez massacre and massacres in another ten Mayan communities in different departments of the country that were victims of similar human rights violations, and

i) The State should make a "symbolic payment for indirect damage" that includes works of infrastructure, such as: a paved road connecting the communities of Plan de Sánchez, Concul, Chipuerta, Joya de Ramos, Raxjut, Volcancillo, Chichupac, Coxojabaj, Las Tunas, Las Minas, Las Ventanas, Ixchel and Chiac with the municipal capital of Rabinal, and also with Guatemala

City directly; the supply of potable water, and teachers in the communities. It should also conduct studies on the most urgent needs in the region and implement productive projects.

### Arguments of the State

92. The State expressed its profound regret for the events suffered by the Plan de Sánchez community on July 18, 1982, and apologized to the victims, the survivors and the next of kin, as an initial manifestation of respect, reparation and guarantee of non-repetition. In this regard, it requested the Inter-American Court to weigh the significance of the act of justice performed by the State in acknowledging its international responsibility. It also expressed its determination to repair the damage caused to the victims, survivors and next of kin of the Plan de Sánchez community for the suffering resulting from the events that occurred and the violation of their human rights. In this regard, it alleged that:

- a) The efforts of the survivors, next of kin of the victims, and human rights organizations to establish the truth and seek justice, and also the support and monitoring efforts of the international community, have contributed, within the framework of the national effort, to consolidating the peace process, which constitutes a guarantee of non-repetition, and
- b) Given the difficulty of identifying each of the victims who died in the massacre, as well as their next of kin and beneficiaries, reparation measures will be ordered that dignify and rehabilitate the surviving next of kin and victims, instead of merely providing individual financial reparation. These rehabilitation measures could consist of medical and psychological treatment and social services that include educational and productive projects for the affected community, which would make the most useful contribution to rebuilding the social fabric, and reconciling the victims of the conflict and the State.

### Considerations of the Court

93. Reparations are not exhausted by compensation for pecuniary and non-pecuniary damage (*supra* paras. 72 to 76 and 80 to 89); other forms of reparation must be added. In this section, the Court will begin to determine measures of satisfaction seeking to repair the non-pecuniary damage, which are not of a pecuniary nature, but rather have public repercussions. These measures have particular relevance in this case, owing to the extreme gravity of the facts and the collective nature of the damage produced.

- a) Obligation to investigate the facts that resulted in the violations, and identify, prosecute and punish those responsible

94. The Court has concluded, *inter alia*, that the State violated Articles 8(1) and 25 of the Convention, in relation to Article 1(1) thereof, to the detriment of the victims in the instant case, owing to the inadequacy of the investigations and the obstruction and delay of the criminal proceedings opened to punish the perpetrators and masterminds of the facts related to the massacre carried out on July 18, 1982. In this regard, the Court considers that the persecution, threats and harassment by State agents, which the victims endured, was aimed at preventing them from reporting the massacre, avoiding elucidation of the facts, and concealing those responsible. Some survivors were also threatened because they participated in the domestic proceedings and



in the international proceedings before the inter-American system; consequently, the Court adopted provisional measures in their favor (supra paras. 23 to 25). The Court established that, to ensure due process, the State must facilitate all necessary measures to protect the victims from harassment and threats that seek to hinder the proceedings. [FN262] When the victims reported the existence of the clandestine cemeteries at the site of the massacre, the criminal investigations opened by the Salamá Court of First Instance and by the Attorney General's office were obstructed by, inter alia: an unjustified delay in the exhumations procedures, misplacement of the ballistic evidence for more than two years, and the Defense Ministry's refusal to provide information requested by the Attorney General's office. The criminal proceedings opened more than ten years' ago to clarify the facts have not been effective; as has been demonstrated, they are still pending and therefore have exceeded a reasonable time. The foregoing has caused the victims insecurity, impotence and anguish.

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[FN262] Cf. Case of Myrna Mack Chang. Judgment of November 25, 2003. Series C No. 101, para. 199.

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95. More than 22 years after the massacre and 10 after the corresponding investigations were opened, the State has not investigated the facts or identified, prosecuted and punished those responsible. This constitutes a situation of impunity, which contravenes the State's aforementioned obligation, harms the victims, and encourages the chronic repetition of the human rights violations in question. [FN263]

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[FN263] Cf. Case of Tibi, supra note 3, para. 255; Case of the Gómez Paquiyauri Brothers, supra note 251, para. 228, and Case of the 19 Tradesmen, supra note 254, paras. 257 and 260.

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96. On many occasions, this Court has referred to the right of the victims' next of kin to know what happened and the identity of the State agents responsible for the respective facts. [FN264] As the Court has indicated, taking into account the aggravating circumstances of the instant case: "whenever there has been a human rights violation, the State has a duty to investigate the facts and to punish those responsible, [...] and this obligation must be complied with seriously and not as a mere formality." [FN265]

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[FN264] Cf. Case of Tibi, supra note 3, para. 256; Case of the Gómez Paquiyauri Brothers, supra note 251, para. 229, and Case of the 19 Tradesmen, supra note 254, para. 258.

[FN265] Cf. Case of Tibi, supra note 3, para. 256; Case of the Gómez Paquiyauri Brothers, supra note 251, para. 229, and Case of the 19 Tradesmen, supra note 254, para. 258.

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97. The victims of human rights violations and their next of kin have the right to know the truth. [FN266] This right to the truth has been developed by international human rights law [FN267] and its recognition is an important measure of reparation.

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[FN266] Cf. Case of Tibi, supra note 3, para. 257; Case of the Gómez Paquiyauri Brothers, supra note 251, para. 230, and Case of the 19 Tradesmen, supra note 254, para. 261.

[FN267] Cf. Case of Tibi, supra note 3, para. 257; Case of the Gómez Paquiyauri Brothers, supra note 251, para. 230, and Case of the 19 Tradesmen, supra note 254, para. 261.

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98. In light of the above, and to repair this aspect of the violations committed, the State must conduct an effective investigation into the facts of the Plan de Sánchez massacre so as to identify, prosecute and punish the perpetrators and masterminds. The victims must have full access and competence to act at all stages and in all bodies of these investigations, in accordance with domestic law and the provisions of the American Convention. [FN268] The result of the proceeding must be publicized so that Guatemalan society may know the truth.

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[FN268] Cf. Case of Tibi, supra note 3, para. 258; Case of the Gómez Paquiyauri Brothers, supra note 251, para. 231, and Case of the 19 Tradesmen, supra note 254, para. 263.

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99. The State must guarantee that the domestic proceedings to investigate, prosecute and punish those responsible for the facts will be effective. As the Court has noted in other cases, it must also abstain from using figures such as amnesty and prescription, and the establishment of measures designed to exclude responsibility, or measures intended to prevent criminal prosecution or suppress the effects of a conviction. [FN269]

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[FN269] Cf. Case of Tibi, supra note 3, para. 259; Case of the Gómez Paquiyauri Brothers, supra note 251, para. 232, and Case of the 19 Tradesmen, supra note 254, para. 263.

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b) Public act acknowledging international responsibility to make reparation to the victims and to commemorate those executed in the massacre

100. In its judgment on merits of April 29, 2004 (supra para. 18), the Court stated that the State's acknowledgment of responsibility made a positive contribution to the evolution of this proceeding and to the application of the principles that inspire the American Convention. The Court also recognizes that, during the public hearing held on April 24, 2004, the State manifested "its profound regret for the events endured and suffered by the Plan de Sánchez community on July 18, 1982, [and] apologize[d] to the victims, the survivors and the next of kin[,] as an initial sign of respect, reparation and guarantee of non-repetition." However, for this declaration to be fully effective as reparation to the victims and serve as a guarantee of non-repetition, the Court considers that the State must organize a public act acknowledging its responsibility for the events that occurred in this case to make reparation to the victims. The act should be carried out in the village of Plan de Sánchez, where the massacre occurred, in the presence of high-ranking State authorities and, in particular, in the presence of the members of the Plan de Sánchez community

and the other victims in this case, inhabitants of the villages of Chipuerta, Joya de Ramos, Raxjut, Volcanillo, Coxojabaj, Las Tunas, Las Minas, Las Ventanas, Ixchel, Chiac, Concul and Chichupac; the leaders of these affected communities must also take part in the act. The State must provide the means to facilitate the presence of these persons in the said act. Also, Guatemala must conduct this act in both Spanish and in Maya-Achí, and publicize it in the media. The State shall carry out this activity within one year of notification of this judgment.

101. Bearing in mind the characteristics of the case as regards those who were executed in the Plan de Sánchez massacre, carried out by State agents on July 18, 1982, the Court considers that, during this act, the State must honor publicly the memory of those executed, most of them members of the Mayan indigenous people, belonging to the Achí linguistic community, who were the inhabitants of the village of Plan de Sánchez and also the villages of Chipuerta, Joya de Ramos, Raxjut, Volcanillo, Coxojabaj, Las Tunas, Las Minas, Las Ventanas, Ixchel, Chiac, Concul and Chichupac. The State must take into account the traditions and customs of the members of the affected communities in this act

c) Translation of the judgments of the Court into the Maya-Achí language

102. The Court considers that the State must translate the American Convention on Human Rights into the Maya-Achí language, if this has not been done already, as well as the judgment on merits delivered by the Court on April 29, 2004, and this judgment. Guatemala must also provide the necessary resources to publicize these texts in the municipality of Rabinal and deliver them to the victims of the instant case. To this end, the State has one year from notification of this judgment.

d) Publication of the pertinent parts of the judgments of the Court

103. Furthermore, and as it has ordered on other occasions, [FN270] the Court considers that, as a measure of satisfaction, the State must publish, at least once, in the official gazette and in another daily newspaper with national circulation, in Spanish and in Maya-Achí, the section entitled Proven Facts in Chapter V, and the first to fourth operative paragraph of the judgment on merits delivered by the Court on April 29, 2004 (supra para. 18), and also Chapter VII entitled Proven Facts (without the footnotes), and the first to ninth operative paragraph of this judgment, within one year of notification of this judgment.

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[FN270] Cf. Case of Tibi, supra note 3, para. 260; Case of the “Juvenile Reeducation Institute”, supra note 3, para. 315, and Case of Ricardo Canese, supra note 3, para. 209.

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e) Guarantee of non-repetition by providing resources for the collective memory

104. With regard to the guarantees of non-repetition of the facts of this case, the Court establishes, in fairness, the sum of US\$25,000.00 (twenty-five thousand United States dollars) or its equivalent in national currency, for maintenance and improvements to the infrastructure of the chapel in which the victims pay homage to those who were executed in the Plan de Sánchez

massacre. Within one year of notification of this judgment, this sum must be delivered to the members of the Plan de Sánchez community or their chosen representatives, who will be responsible for administering it. This will help raise public awareness to avoid repetition of events such as those that occurred in this case, and keep alive the memory of those who died. [FN271]

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[FN271] Cf. Case of the Gómez Paquiyauri Brothers, *supra* note 251, para. 236; Case of the 19 Tradesmen, *supra* note 254, para.273, and Case of Molina Theissen. Reparations, *supra* note 256, para. 88.

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g) Housing program

105. Since the inhabitants of Plan de Sánchez lost their homes as a result of the facts of this case (*supra* para. 49(4)), the Court considers that the State must implement a housing program to provide adequate housing [FN272] to the surviving victims who live in that village (*supra* paras. 66(a) and 68(a)) and who require it. The State must implement this program within five years of notification of this judgment.

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[FN272] Cf. Application of the International Covenant on Economic, Social and Cultural Rights, General Comment 4, The right to adequate housing (paragraph 1 of Article 11 of the Covenant) (Sixth session, 1991), U.N. Doc. E/1991/23.

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f) Medical and psychological treatment

106. The victims who have given testimony before the Court or by affidavit have stated that they suffer from physical and psychological problems as a result of the facts of this case. Also, the expert witness, Nieves Gómez Dupuis, stated during the public hearing that the surviving victims of the massacre have mental health problems and psychosomatic ailments. The Court notes that it should order a measure designed to reduce the physical and mental sufferings of the victims in this case (*supra* para. 49(10)), resulting from the violations, if they so wish. [FN273]

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[FN273] Cf. Case of the “Juvenile Reeducation Institute”, *supra* note 3, para. 318; Case of the Gómez Paquiyauri Brothers, *supra* note 251, para. 207, and Case of the 19 Tradesmen, *supra* note 254, para. 277.

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107. To help repair this damage, the Court decides that the State shall provide, free of charge, through its specialized health institutions, the medical treatment that the victims require, including, *inter alia*, any necessary medication. The State shall also create a specialized program of psychological and psychiatric treatment, which should also be provided free of charge. When providing the psychological and psychiatric treatment, the special circumstances and needs of

each person must be taken into account, in order to provide collective, family and individual treatment. This treatment should be implemented following an assessment of each individual, and as agreed with each of them.

108. To this end, the State must set up a committee to evaluate the physical and mental condition of the victims, and also the treatment that each one requires. The non-governmental organization, Community Studies and Psychosocial Action Team, must play an active part in this committee and, should this organization not agree or be unable to assume the task, the State must identify another non-governmental organization, with experience in treating victims, to replace it. Guatemala must inform the Court about the constitution of this committee within six months. With regard to the medical and psychological treatment, this should be started immediately after the constitution of the committee for a period of five years.

h) Development program (health, education, production and infrastructure)

109. In their arguments, the Commission and the representatives noted the need to develop programs on health, education, production and infrastructure that would benefit the members of the communities affected by the facts of this case. The State also indicated that the measures of reparation could comprise the obligation of the State to provide social services, in accordance with international standards. Also, the witnesses, Juan Manuel Jerónimo and Buenaventura Manuel Jerónimo, in particular, mentioned that educational and infrastructure programs (for example, highways, paved roads, potable water) should be implemented as a measure of reparation.

110. Given the harm caused to the members of the Plan de Sánchez community and to the members of the communities of Chipuerta, Joya de Ramos, Raxjut, Volcanillo, Coxojabaj, Las Tunas, Las Minas, Las Ventanas, Ixchel, Chiac, Concul and Chichupac, owing to the facts of this case, the Court decides that the State shall implement the following programs in these communities (in addition to the public works financed by the national budget allocated to that region or municipality): a) study and dissemination of the Maya-Achí culture in the affected communities through the Guatemalan Academy of Mayan Languages or a similar organization; b) maintenance and improvement of the road systems between the said communities and the municipal capital of Rabinal; c) sewage system and potable water supply; d) supply of teaching personnel trained in intercultural and bilingual teaching for primary, secondary and comprehensive schooling in these communities, and e) the establishment of a health center in the village of Plan de Sánchez with adequate personnel and conditions, as well as training for the personnel of the Rabinal Municipal Health Center so that they can provide medical and psychological care to those who have been affected and who require this kind of treatment,

111. The State must implement these programs within five years of notification of this judgment and present the Court with a detailed implementation report every year.

## IX. COSTS AND EXPENSES

### Arguments of the Commission

112. The Commission requested the Court that, when it had heard the representatives, it should order payment of the costs and expenses duly authenticated by the representatives that were incurred at the domestic level, in the judicial proceedings filed by the victims or their representatives in the domestic jurisdiction, and those incurred at the international level by processing the case before the Commission and filing the application before the Court.

#### Arguments of the representatives

113. The victims' representatives requested the Court to order payment of costs and expenses. They stated that:

- a) The Court has understood that lawyers who assist victims or their next of kin must incur some expenditure when processing the case before the organs of the inter-American system for the protection of human rights, and has provided for the injured party to be granted compensation so as to reimburse such expenses, and
- b) They requested the Court to order a payment for legal fees, for the time that the personnel of the legal area of CALDH devoted to providing advice in this case, and other expenditure. This amounts to US\$55,680.00 (fifty-five thousand six hundred and eighty United States dollars).

#### Arguments of the State

114. The State did not refer to the payment of costs and expenses.

#### Considerations of the Court

115. As the Court has indicated on previous occasions, [FN274] costs and expenses are included in the concept of reparation embodied in Article 63(1) of the American Convention, because the measures taken by the victim in order to obtain justice at the domestic and the international level imply expenditure that must be compensated when the State's international responsibility has been declared in a judgment against it. For purposes of reimbursement, the Court must prudently assess their scope, which includes the expenses incurred before the authorities of the domestic jurisdiction, and also those incurred during the proceedings before the inter-American system, taking into account the circumstances of each specific case and the nature of the international jurisdiction for the protection of human rights. This assessment may be based on the principle of fairness and by evaluating the expenses indicated by the Inter-American Commission and by the representatives, providing the amount is reasonable

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[FN274] Cf. Case of Tibi, *supra* note 3, para. 268; Case of the "Juvenile Reeducation Institute", *supra* note 3, para. 328, and Case of Ricardo Canese, *supra* note 3, para. 212.

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116. In this case, the Court considers that it is just to order, in fairness, the sum of US\$55,000.00 (fifty-five thousand United States dollars) or its equivalent in national currency, for costs and expenses, which must be delivered to the Center for Legal Action on Human Rights (CALDH) for litigating the case before the inter-American system for the protection of human

rights. The Court has decided to deliver this sum directly to the organization, given the amount and that the victims in this case are widely dispersed.

## X. MEANS OF COMPLIANCE

117. To comply with this judgment, the State shall pay the compensation (supra paras. 74, 75, 76, 88 and 89), reimburse the costs and expenses (supra para. 116), organize the public act acknowledging international responsibility to provide reparation to the victims and to commemorate those executed in the massacre, and ensure the translation of the judgment on merits, this judgment and the American Convention, the publication of the extracts from these judgments, and implement the guarantee of non-repetition by providing resources for the collective memory (supra paras. 100, 101, 102, 103 and 104) within one year, unless a different time frame has been established (supra para. 67). The State shall implement the housing program within no more than five years (supra para. 105). The State shall also set up a committee to evaluate the physical and mental condition of the victims and, immediately after its constitution, shall provide the respective treatment, for five years (supra paras. 106, 107 and 108). Lastly, the State shall implement the development programs within five years (supra paras. 109, 110 and 111). All these periods will be calculated as of notification of this judgment.

118. The payment of the compensations established in favor of the victims shall be made as established in paragraphs 63, 64, 65 and 67 of this judgment, as applicable.

119. The payments corresponding to the reimbursement of the costs and expenses arising from the measures taken by the representatives in the international proceedings before the inter-American system for the protection of human rights, shall be made in favor of these representatives (supra para. 116).

120. The State may comply with its obligations of a pecuniary nature by payment in United States dollars or an equivalent amount in national currency, using the exchange rate between the two currencies in force on the market in New York, United States, the day before the payment to make the respective calculation

121. If, due to causes attributable to the beneficiaries of the compensation, it should not be possible for them to receive it within the established terms of one year or twenty-four months from the notification of the judgment, the State shall deposit the amounts in their favor in an account or a deposit certificate of a solvent Guatemalan banking institution, in United States dollars, in the most favorable financial conditions permitted by law and banking practice. If, after ten years, the compensation has not been claimed, the amount shall be returned to the State, with the interest earned.

122. The amounts for compensation of pecuniary and non-pecuniary damage and for costs and expenses established in this judgment may not be encumbered, reduced or conditioned by any current or future fiscal measure. Consequently, they must be delivered to the beneficiaries integrally, as established in this judgment.

123. If the State should delay payment, it shall pay interest on the amount owed, corresponding to banking interest on arrears in Guatemala.

124. In accordance with its consistent practice, the Court reserves the authority inherent in its attributes to monitor full compliance with this judgment. The case shall be filed once the State has fully complied with its provisions. Within one year from notification of the judgment, Guatemala shall provide the Court with a first report on the measures taken to comply with it.

## XI. OPERATIVE PARAGRAPHS

125. Therefore,

THE COURT,

unanimously,

DECLARES THAT:

1. This judgment constitutes, per se, a form of reparation, in the terms of paragraph 81 hereof.

AND ORDERS:

unanimously,

1. The State shall investigate effectively the facts of the Plan de Sánchez Massacre in order to identify, prosecute and punish the perpetrators and masterminds, in the terms of paragraphs 94 to 99 of this judgment.

2. The State shall organize a public act to acknowledge its responsibility for the events that occurred in this case and to make reparation to its victims. The act must be carried out in the village of Plan de Sánchez, where the massacre occurred, in the presence of senior State authorities and, particularly the members of the Plan de Sánchez community and the other victims in this case, inhabitants of the villages of Chipuerta, Joya de Ramos, Raxjut, Volcanillo, Coxojabaj, Las Tunas, Las Minas, Las Ventanas, Ixchel, Chiac, Concul and Chichupac; the leaders of these affected communities must participate in this act. The State shall provide the necessary means to facilitate the presence of these people in the act. Furthermore, the State shall conduct the act in both Spanish and Maya-Achí and publicize it in the media, in the terms of paragraphs 100 and 117 of this judgment.

3. During this same act, the State shall publicly honor the memory of those executed in the Plan de Sánchez massacre carried out by State agents on July 18, 1982, in the terms of paragraphs 101 and 117 of this judgment.

4. The State shall translate the American Convention on Human Rights into Maya-Achí, if this has not been done already, and also the judgment on merits delivered by the Court on April 29, 2004, and this judgment. The State shall also provide the necessary resources to publicize these texts in the municipality of Rabinal and deliver them to the victims in this case, in the terms of paragraphs 102 and 117 of this judgment.



5. The State shall publish, within one year from notification of this judgment, at least once, in the official gazette and in another daily newspaper with national circulation, in Spanish and in Maya-Achí, the section entitled Proven Facts in Chapter V, and the first to fourth operative paragraphs of the judgment on merits delivered by the Court on April 29, 2004, and also Chapter VII, entitled Proven Facts (without the footnotes), and the first declaratory point and the first to ninth operative paragraphs of this judgment, in the terms of paragraphs 103 and 117.
6. The State shall pay the amount established in paragraph 104 of this judgment to maintain and improve the infrastructure of the chapel in which the victims pay homage to those executed in the Plan de Sánchez massacre, in the terms of paragraphs 104 and 117.
7. The State shall provide, free of charge, through its specialized health institutions, the medical treatment required by the victims, including, inter alia, any necessary medication. The State shall also create a specialized program of psychological and psychiatric treatment, which must also be provided free of charge, in the terms of paragraphs 106 to 108 and 117 of this judgment.
8. The State shall provide adequate housing to the surviving victims who reside in the village of Plan de Sánchez and require it, in the terms of paragraphs 105 and 117 of this judgment.
9. The State shall implement the following programs in the communities of Plan de Sánchez, Chipuerta, Joya de Ramos, Raxjut, Volcanillo, Coxojabaj, Las Tunas, Las Minas, Las Ventanas, Ixchel, Chiac, Concul and Chichupac: a) study and dissemination of the Maya-Achí culture in the affected communities through the Guatemalan Academy of Mayan Languages or a similar organization; b) maintenance and improvement of the road systems between the said communities and the municipal capital of Rabinal; c) sewage system and potable water supply; d) supply of teaching personnel trained in intercultural and bilingual teaching for primary, secondary and comprehensive schooling in these communities, and e) the establishment of a health center in the village of Plan de Sánchez with adequate personnel and conditions, and also training for the personnel of the Rabinal Municipal Health Center so that they may provide medical and psychological care to those who have been affected and who require this kind of treatment, in the terms of paragraphs 109 to 111 and 117 of this judgment.
10. The State shall make the payments for pecuniary damage to each of the victims in this case, in the terms of paragraphs 72 to 76 and 117 of this judgment.
11. The State shall make the payment for non-pecuniary damage to each of the victims in this case, in the terms of paragraphs 80 to 89 and 117 of this judgment.
12. The State shall make the payment for costs and expenses incurred in the international proceedings to the Center for Legal Action on Human Rights (CALDH) in the terms of paragraphs 116, 117 and 119 of this judgment.
13. The State shall pay the total amount of the compensation ordered for the pecuniary damage, non-pecuniary damage, and costs and expenses established in this judgment, and none of these items may not be subject to any current or future tax or charge.
14. The State shall comply with the measures of reparation and reimbursement of expenses ordered in this judgment, within one year of its notification, unless a different time frame has been established.
15. If the State should delay payment, it shall pay interest on the amount owed, corresponding to banking interest on arrears in Guatemala, in the terms of paragraph 123 of this judgment.

16. The Court shall monitor the execution of this judgment and shall file this case when the State has complied fully with its provisions. Within one year from notification of this judgment, the State shall provide the Court with a report on the measures taken to comply with it, in the terms of paragraph 124 of the judgment.

Judges García Ramírez and Cançado Trindade informed the Court of their Separate Opinions. Judge Medina Quiroga endorsed the opinion of Judge García Ramírez.

Done, at San José, Costa Rica, on November 19, 2004, in Spanish and English, the Spanish text being authentic.

Sergio García-Ramírez  
President

Alirio Abreu-Burelli  
Oliver Jackman  
Antônio A. Cançado Trindade  
Cecilia Medina-Quiroga  
Manuel E. Ventura-Robles  
Diego García-Sayán

Alejandro Sánchez-Garrido  
Judge ad hoc

Pablo Saavedra-Alessandri  
Secretary

So ordered,

Sergio García-Ramírez  
President

Pablo Saavedra-Alessandri  
Secretary

SEPARATE OPINION OF JUDGE SERGIO GARCIA-RAMIREZ IN THE JUDGMENT ON REPARATIONS IN THE CASE OF THE PLAN DE SANCHEZ MASSACRE OF NOVEMBER 19, 2004

A. INDIVIDUAL AND COLLECTIVE RIGHTS

1. The considerations and decisions included in the judgment on reparations delivered by the Inter-American Court of Human Rights in the Case of the Plan de Sánchez Massacre on November 19, 2004, following the judgment on merits handed down on April 29, 2004, allowed the Court to return to an issue it has considered in other rulings; the ownership of the rights protected by the American Convention and, when applicable, other international instruments

with a similar perspective, which grant contentious jurisdiction to the Inter-American Court. These judgments include those delivered in the Case of the Mayagna (Sumo) Awas Tingni Community, in its own specific domain, and the Case of Cantos, from the point of view on which I will refer to in this opinion.

2. In these cases, the parties' positions were based on specific individual rights and determined rights of moral or collective persons. They raised the issue of the latter's ownership of "human" rights and, consequently, of the scope of the Court's protective powers and decisions. There have been differing opinions in this regard; the issue should therefore be re-examined, based on the judgment to which I add this separate opinion.

3. In the Mayagna Community case, it was acknowledged – in the domestic instances and during the proceedings before the organs of the inter-American system – that this indigenous community was the holder of rights to the property it had owned for many years, which was the source of the community's "material subsistence" and also of elements related to its culture and, in this regard, aspects of community integration, continued existence and transcendence, in other words, of the "spiritual survival" of the group, if I may be allowed this expression.

4. Given that the material and spiritual aspects of the life of each member of the indigenous community are intimately linked to those of the community, the sum of the rights of the members is made up of the powers, liberties or prerogatives they possess independently of the community itself (such as the right to life and the right to humane treatment), and the rights that arise precisely from their membership in the community, which are justified and exercised in function of the latter, and which, in these circumstances, acquire their maximum meaning and content: for example, the right to participate in the use and enjoyment of certain property, and the right to receive, preserve and transmit the benefits of a specific culture.

5. The collective rights of the community are not blended with those of its members, and the individual rights of the members are not absorbed or subsumed in the former. Each "category" retains its own entity and autonomy. Both of them, deeply and closely interrelated, retain their own character, are subject to protection and require specific measures of protection. In this context, recognition of each of these aspects becomes relevant and even essential for the other. There is no conflict between them, only harmony and mutual dependence. Finally, the collective life becomes part of the individual life, and the latter acquires meaning and worth in the framework of the collective existence. While it is true that this phenomenon can be seen in many societies, perhaps in all, it is also true that in some – such as the indigenous groups of the Americas – it has special, more intense and decisive characteristics.

6. When the Court – and, in particular, I myself, as a judge of the Court – examined the proven facts and the claims made in the Mayagna Community case, I had to bear in mind the terms of the American Convention, and particularly Article 1(2), which emphatically states: "For the purposes of this Convention, "person" means every human being," in order to define the issues raised and the exercise of its own competence.

7. That perspective, which is very clear – and reflects the ideas and decisions that prevailed when the Convention was drafted – explains the numerous allusions in international instruments

to the rights of the person. Several articles state: “Every person/everyone has the right...”; in other words, the human being is recognized as having the right expressed in that article. This is the case of Article 21 concerning property, the first paragraph of which begins with the reiterated formula: “Everyone has the right....” It alludes, thus, to a right of the human being.

8. Other provisions of the American treaty system have used this approach. For example, Article 8(1)(a) of the Protocol of San Salvador, which refers to aspects of individual and collective labor laws, both sectors of modern labor law. The Protocol recognizes rights to individual workers and alludes to the obligations of States towards them as natural persons, as well as towards the trade unions and workers federations, collective or legal persons composed of the former or of groups of natural persons.

9. The same article, which refers to the “right of workers to organize trade unions,” characterizes the latter’s powers, in correlation to the obligations of the States, as an “extension” of the individual right of workers to organize trade unions and join them for the purpose of protecting and promoting their interests. Consequently, the Protocol protects directly the rights of the human being, and only indirectly promotes – through the rights of the person, which are always foremost – the powers of collective persons.

10. I consider that the judgment delivered in the Mayagna Community case should be understood in the context of these considerations. In this regard, in paragraph 14 of my concurring opinion to that judgment, I indicated: “In its analysis of the matter subject to its jurisdiction, the Inter-American Court regarded the rights to use and enjoy property, protected under Convention Article 21, from a perfectly valid perspective, that of the members of the indigenous communities. In my opinion, the approach taken for purposes of the present judgment does not in any way imply a disregard or denial of other related rights that differ in nature, such as the collective rights so frequently referenced in the domestic and international instruments that I have cited in this opinion. It must be recalled that individual subjective rights flow from and are protected by these community rights, which are an essential part of the juridical culture of many indigenous peoples and, by extension, of their members. In short, there is an intimate and inextricable link between individual and collective rights, a linkage that is a condition sine qua non for genuine protection of persons belonging to indigenous ethnic groups.”

11. There is a considerable body of instruments or draft instruments that refer to the collective rights of indigenous peoples, as indicated above. The judgment in the Mayagna case alludes to them and, in my concurring opinion, I cited some. Likewise, there are numerous high-ranking provisions in domestic law (for example, the Constitutions of several countries of the hemisphere), which affirm the existence of these same rights, based on the pre-Colombian legal system and the specific relationship of the indigenous groups to the land they have owned – not without interferences arising from other ownership claims – and where they have led their lives and preserved ancient customs and beliefs. This specific relationship has characteristics that go beyond the mere possession or ownership of the land.

12. The status of these peoples and their property, which constitutes a timeless basis for the social relationships of a large part of the Americas, must be adequately protected. The liberal legislation of the nineteenth century did not do this; it militated in favor of individual property

and denied or weakened the original rights of the American peoples. The legislation deriving from the social trend of law, enacted in the first half of the twentieth century, has attempted to do this, with relative success. This is the context within which the rights of members of the indigenous peoples, members of ancient communities, are examined. Their rights do not arise from recent laws, which merely recognize such rights.

13. I emphasize that this way of interpreting the Convention and the corresponding rulings of the Court, in no way disregards or diminishes the collective rights of the indigenous groups, fully included in international instruments and national laws that try to do justice to the original inhabitants of the hemisphere, victims of habitual plunder. To the contrary, they underscore the significant legal, ethical and historical value of these community rights and recognize that they are the source of individual rights and that the latter, based on the former or fed by them, are, in turn, human rights with the same ranking as any treaty-based rights.

14. I also referred to the Case of Cantos, as a precedent in delimiting individual and collective rights. In this context, the Court examined the participation of a natural person in the patrimony of a collective person, an issue regulated by civil and commercial law. I will merely recall that in its judgment in that case, the Court stated: "This Court considers that, although the figure of legal entities has not been expressly recognized by the American Convention, as it is in Protocol No. 1 to the European Convention on Human Rights, this does not mean that, in specific circumstances, an individual may not resort to the inter-American system for the protection of human rights to enforce his fundamental rights, even when they are encompassed in a legal figure or fiction created by the same system of law" (para. 29).

## B. REPARATION AND PRESERVATION OF CULTURE

15. The judgment of November 19, 2004, in the Case of the Plan de Sánchez Massacre was delivered based on the abovementioned judgment of April 29, which, in turn, took into consideration the State's acknowledgement of international responsibility of April 23, 2004, admitted by the Court in an order of the same date. The judgment of November 19, which this opinion accompanies, orders certain reparations as compensation for the non-pecuniary damage resulting from the need to preserve the traditional culture of the victims and their descendants.

16. The aggression they suffered destroyed or was intended to destroy the historical link between the old and the new generations that ensured the transmission of the cultural traditions, which are the condition and expression of the identity of the members at both the individual and the collective level. The women and the elders were sacrificed in an effort to restrict the reception and transmission of the culture, which gives identity, continuity and historical transcendence to certain human groups. This very severe violation was carried to extremes when the surviving men were obliged to enlist with their aggressors and act in concert with them, as if they were members of that group, rather than the one that had been abused.

17. I believe that this point has been covered satisfactorily in some points of the judgment on reparations in this case; such as when it is said that "With the death of the women and the older people, oral transmitters of the Maya Achí culture, their knowledge could not be transmitted to the new generations, and, today, this has produced a cultural vacuum. The orphans did not

receive the traditional education handed down from their ancestors. In turn, the militarization and repression to which the survivors of the massacre were subjected, particularly the young men, has caused them to lose their faith in the traditions and knowledge of their forefathers" (para. 49(12)).

18. The right to the benefits of culture is established in Article 14 of the Protocol of San Salvador. The Court has not attempted to apply this norm, but has merely established the evident consequences of the pecuniary and non-pecuniary damage suffered by the victims of the declared violations of the American Convention, violations that are included in the State's acknowledgment of international responsibility, according to the Inter-American Court's judgment of April 29, 2004, in this case. Clearly, there are connections between the juridical rights preserved directly by the American Convention and those established in the Protocol of San Salvador; to such an extent, that the protection granted by the former instrument contributes to the protection of the rights established in the Protocol.

19. It is pertinent to recall that the State's acknowledgment of international responsibility includes violations of Articles 1(1), 5(1) and 5(2) (Right to Humane Treatment, specifically the attack on physical, mental and moral integrity, torture, and cruel, inhuman and degrading treatment), 8(1) (Right to a Fair Trial), 11 (Right to Privacy), 16(1) (Freedom of Association), 21(1) and 21(2) (Right to Property, specifically the use and enjoyment of property and prohibition to deprive anyone of this), 24 (Right to Equal Protection) and 25 (Right to Judicial Protection). Also, violations of Articles 12(2) and 12(3) (Right to Freedom of Conscience and Religion, specifically, harm to freedom of religion and beliefs, and limitation to manifest religion and beliefs), 13(2)(a) and 13(5) (Freedom of Thought and Expression; in this case, respect for rights or reputation, and prohibition of war propaganda and advocacy of hate that constitute incitement to lawless violence on grounds of race, color, religion, language or national origin, inter alia).

20. The deprivations endured by the victims caused them severe physical, mental and moral suffering, as established in Article 5(1) and 5(2) of the Convention. They also gave rise to the violation of several aspects of the exercise of freedom of conscience and religion, as established in Article 12(2) and 12(3) of the Pact of San José, and also of freedom of thought and expression in relation to the incitement to violence, in accordance with Article 13(2) and 13(5), provisions invoked, inter alia, by the Court in its judgment of April 29, to which I now refer.

21. In view of the above, it is pertinent that the Court order reparation measures that alleviate the harm suffered by the victims and their successors, avoid the repetition of violations of this nature, and re-establish, insofar as possible, some of the conditions that existed before the massacre occurred, producing its grave and notorious consequences. These measures of reparation are of diverse types. They include those that, based on the violation of Article 5 of the Pact of San José, relate to the preservation of the culture of the communities affected and the provision of certain goods and services that contribute to mitigating the suffering caused and avoiding fresh violations of the same nature.

### C. INTEGRATION OF THE COMPENSAATION

22. When exercising its jurisdiction to protect human rights, which occurs when a fundamental right of a specific individual has been violated, the system to which this jurisdiction belongs has several objectives: to re-establish the legal order that has been breached, to restore social peace and tranquility based on freedom and justice, to avoid self-defense, and to repair the damage caused to the victim. I will not try and establish a ranking of these objectives in the sphere of the protection of human rights. My interest is to underscore the need to provide effective legal protection to the victim, or his successors if applicable, once the violation has been committed, which translates into a specific reasonable reparation that lessens the consequences of the violation and mitigates the damage caused. This reparation must be based on justice and, particularly, on fairness.

23. The judge cannot lose sight of this need, which is based on the consideration due to those who have been directly affected by the violation. It is true that, based on these often very moving and distressing cases, it is possible, and necessary, to establish general concepts and legal doctrine that contribute to the development of law, but it is also true that the judge cannot – or, in my opinion, should not – ignore the “individual case” and focus his attention on the “general concept,” leaving the victim in the distant background, reduced to a mere motive for reflection and conclusions that transcend him and, finally, leave him abandoned.

24. When taking a decision on compensation for the deprivation of juridical rights that are not of a strictly patrimonial nature, the judge confronts problems that are difficult to resolve. This happens when he wants to compensate the suffering caused by the arbitrary deprivation of the life of a loved one, but also when he decides compensation for other violations that lead to suffering. In this case, the arbitrary deprivation of life, in itself, is outside the jurisdiction of the Inter-American Court, because of the date on which the State accepted this jurisdiction. When considering intense suffering, the damage caused can and must be compensated or alleviated only by financial compensation. In the absence of a better solution, it has been accepted that a violation entails the obligation to provide compensation.

25. In these cases, it is obviously impossible to compensate the damage suffered as to when the loss of a possession can be compensated by providing a new one of identical nature and value to the one lost, an operation that approximates restitutio. In such cases, a payment in cash or in kind, or both, is decided; this contributes, on the one hand, to expressing reproach for the violation committed and, on the other hand, to mitigating the suffering caused.

26. Even though, in the instant case, for the reasons mentioned in paragraph 24, the Court is not attempting to compensate the deprivation of life, but only the suffering resulting from the violations submitted to the Court’s consideration, I believe it is necessary to clarify the applicable reparation criteria, as a general point of reference.

27. All human beings are equal before the law and before justice. Their property merits identical protection. The harm to the latter must be evaluated equally in all cases. However, the court can take into account the circumstances of the beneficiaries of a possible compensation when deciding its characteristics in each case. This case-by-case consideration of non-pecuniary damage (the consideration of pecuniary damage may lead to different conclusions), does not mean that a different value is assigned to the suffering caused by the violation, but that the Court

considers the best way to make reparation, so that, on the one hand, it provides the most benefit to the beneficiary of the compensation and, on the other hand, it results in maximum compliance by the obliged party on which the compensation depends.

28. I believe that these considerations justify the fact that the Inter-American Court has decided compensation of twenty thousand dollars for each of the surviving victims of the massacre, an amount that may be less than that assigned in other cases for non-pecuniary damage arising from the same source. The appreciation of human suffering is no less in this case, owing to the number of victims or the characteristics of the events. To meet the goal mentioned in the preceding paragraph, the Court considered it was also pertinent to grant other measures in favor of these victims, which are added to the financial compensation and, with it, constitute a single compensation.

29. Once again, in this part of the judgment on reparations, the Court considered the collective nature of the life of the beneficiaries of the compensation. Hence, it considered and agreed that, from a practical point of view, certain services to improve the victims' situation should be provided, in addition to the delivery of specific sums of money. As the sentence explains: "Given that the victims in this case are members of the Mayan people, this Court considers that an important component of the individual reparation is the reparation that the Court will now grant to the members of the community as a whole" (para. 86).

30. Some of the measures with "public repercussion" (para. 93) respond to this concern of the Court, which attempts to expand the real benefit and scope of the compensation. They include those relating to the housing program and the development program (health, education, production and infrastructure) referred to in the judgment (paras. 105 and ff.). Thus, the Court continues to construct its case law on reparations, which is one of the most interesting and detailed aspects of the jurisdictional work of the Court, along the lines initiated in the Aloeboetoe and the Mayagna Community cases, which has been developed more fully in the Case of the Plan de Sánchez Massacre, in the judgment on reparations of November 19, 2004.

Sergio García-Ramírez  
Judge

Pablo Saavedra-Alessandri  
Secretary

Judge Medina Quiroga adhered to this opinion of Judge García Ramírez.

Cecilia Medina-Quiroga  
Judge

Pablo Saavedra-Alessandri  
Secretary

**SEPARATE OPINION OF JUDGE A.A. CANÇADO TRINDADE**



1. I have voted in favor of the adoption of this judgment of the Inter-American Court of Human Rights on reparations in the *Plan de Sánchez Massacre v. Guatemala*. However, in this separate opinion, I wish to record the personal reflections that this judgment of the Court has prompted, as I did in my previous separate opinion in the judgment on merits in the instant case. My reflections focus on four central issues: a) State crime revisited; b) time and law revisited; c) reparations for State crime; and d) the primacy of law over brute force.

## I. STATE CRIME REVISITED

2. In an affidavit of March 9, 2004, submitted to the Court, one of the victims (Benjamín Manuel Jerónimo) declared that the said Plan de Sánchez massacre, which took place on July 18, 1982, was perpetrated by “members of the Army, the Civil Self-Defense Patrols (PAC), and the Judicial Police” (para. 32(a)). In his report given during the public hearing before the Court, on April 23 and 24, 2004, the expert witness, Augusto Willemsen-Díaz, stated that, from 1979 to 1983:

"[T]he Maya were oppressed, persecuted, harassed, attacked and put to death violently; this is reflected in the 200,000 deaths and 626 massacres that can be attributed to the State's security forces. The indigenous peoples, the collective conscience, and the cultural identity of the survivors and their next of kin, were drastically affected; they were forced to flee their lands, abandon their traditional community structure based on the nuclear and extended family, and live in fear under military control" (para. 38(d)).

3. In my separate opinion in the judgment on merits in this case, I had already underscored the particular gravity of the facts of this case (paras. 2-5). In this judgment on reparations in the same Case of the Plan de Sánchez Massacre, the Court established, as one of the proven facts, that:

"[t]he survivors and the next of kin of those murdered in the event were reluctant to seek justice and denounce the clandestine cemeteries in the village, owing to the very real fear of permanent harassment, threat and surveillance by the regional military authorities" (para. 49(5)).

4. Moreover, this judgment has expressly recognized the “extreme gravity of the facts” (para. 93). As I indicated in my separate opinion in the judgment on merits in this case:

"According to the American Convention, it is perfectly possible to determine the aggravated international responsibility of the State, with all the juridical consequences in relation to reparations; these include, the State's compliance with the obligation to determine the individual criminal liability of the perpetrators of the violations of the protected rights, and their corresponding punishment. This is not the first time that the Inter-American Court has identified an aggravated international responsibility (in the terms of paragraph 51 of the [...] judgment on [merits] in the Case of the Plan de Sánchez Massacre). In its previous judgment of November 25, 2003, in *Myrna Mack Chang v. Guatemala*, the Court concluded that, from the proven facts, the ‘aggravated international responsibility’ of the defendant State was evident (para. 25).

5. And, later on in the same opinion, I added my belief that:

"the classic vision of a single, undifferentiated regime of international responsibility no longer corresponds to the actual stage in the evolution of this issue in contemporary international law. The customary search for a normative and conceptual hierarchy in the international legal system (illustrated by the introduction of *jus cogens*) has, I believe, established aggravated international responsibility in cases of particularly serious violations of human rights and international crimes, with all its juridical consequences. Because of their particular gravity, international crimes and violations of *jus cogens* affect the basic values of the international community as a whole" (para. 33).

6. This Court's judgment on reparations in the Case of the Plan de Sánchez Massacre is conceived and reasoned in the same way as its previous judgment on merits in this case. The different forms of reparation ordered by the Court in this judgment correspond to the aggravating circumstances of the human rights violations established by the Court in the corresponding judgment on merits. The State's aggravated international responsibility derives from those circumstances (although this is not meant to suggest an inadequate analogy with categories of domestic criminal law.)

7. Indeed, in a case such as this, the facts speak for themselves and eloquently reveal that, contrary to what some international legal doctrine insists on eluding or ignoring, State crimes do exist. The State's intention to cause damage when the facts occurred was reliably proved, and established its international responsibility based on negligence or guilt. The human rights violations, victimizing numerous members of a specific ethnic group, were perpetrated in the name of a State policy.

8. How can the existence of State crime be denied? How do international jurists who surreptitiously support State sovereignty answer this question, bearing in mind the facts of this case? How long will they continue to close their eyes to the reality of the facts? How long will they shortsightedly obstruct the realization of justice at the international level? How long will they delay the development of the law on the State's international responsibility? How long will they postpone the creation and consolidation of a genuine rule of law and, within that framework, a genuine right to law?

9. Since State crime is a reality, as the facts of the instant case prove conclusively, the concomitant determination of the State's international responsibility and the criminal liability of the perpetrators is essential. Even though the Inter-American Court can only deal with the former, there are complementarities between the responsibility of the State and that of the individual. It is not possible to deal with individual responsibility alone, as contemporary international criminal law does. Convergence must be promoted between the latter and international human rights law, as convergences between international humanitarian law, international refugee law and international human rights law, at the normative and also the hermeneutic and operational levels have been intensified over the last decade – as I have been affirming for years – in order to maximize the protection of human rights. [FN1]

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[FN1] Cf. A.A. Cançado Trindade, *Tratado de Direito Internacional dos Direitos Humanos*, tomo I, 1a. ed., Porto Alegre, S.A. Fabris Ed., 1997, cap. VIII, pp. 269-352; A.A. Cançado Trindade, *El Derecho Internacional de los Derechos Humanos en el Siglo XXI*, Santiago de Chile, Editorial Jurídica de Chile, 2001, chap. V, pp. 183-265; A.A. Cançado Trindade, *Derecho Internacional de los Derechos Humanos, Derecho Internacional de los Refugiados y Derecho Internacional Humanitario - Aproximaciones y Convergencias*, Geneva, ICRC, [2001], pp. 1-66.

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10. The convergences are necessary to foster this protection, particularly when the public power structure is distorted and placed at the service of repression (and not in the quest for the common good), or when the State's public power structure is activated in support of private interests (as frequently occurs nowadays). Thus, the international criminal liability of the individual does not absolve the State. The two complement each other, and this recognition is of crucial importance for the eradication of impunity. As I noted in my separate opinion in the judgment on merits in this case:

"The provisions of contemporary international law are addressed directly at the State and its agents; the conduct of both is established and regulated by the latter, and both the State and its agents must be accountable for the consequences of their acts and omissions" (para. 38).

## II. Time and Law Revisited

11. More than 22 years have elapsed between the time the Plan de Sánchez Massacre occurred on July 18, 1982, and this judgment on reparations that the Inter-American Court has just delivered. More than 22 years have elapsed since this massacre fragmented the Maya-Achí community, damaged its cultural identity, destroyed its family roles, and gave rise to a cultural vacuum. Nevertheless, the surviving victims have stated in their testimonies before this Court that they relive this misfortune "all the time," that they remember everything as if it had happened "yesterday." [FN2] They cannot forget.

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[FN2] Inter-American Court of Human Rights (IACtHR), Transcript of the public hearing on the Plan de Sánchez Massacre v. Guatemala held at the seat of the Inter-American Court of Human Rights on April 23 and 24, 2004, p. 121 (in Spanish, for internal circulation only).

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12. More than 22 years have elapsed since the victims were obliged to live side by side with the perpetrators. More than 22 years have elapsed of humiliation faced with the difficulty of locating the clandestine cemeteries and exhuming the corpses of the massacre. More than 22 years have elapsed of prolonged denial of justice and the consequent impunity. However, the passage of time has not erased what happened from the memory of the surviving victims. They cannot forget.

13. More than 22 years after the Plan de Sánchez massacre, the defendant State has finally acknowledged its international responsibility for the grave human rights violations [FN3] in this case and, following the court's judgment on merits in the instant case, the surviving victims now

have a judgment on reparations. During the contentious proceeding before the Court, the State assumed a constructive attitude. But what is the impact of the passage of this extended period (more than 22 years) on the application of law, as regards the reparations that the Court has just ordered? This was precisely the question I asked during the public hearing on reparations before the Court, on April 23 and 24, 2004.

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[FN3] Embodied in Articles 1(1), 5(1) and (2), 8(1), 11, 12(2) and (3), 13(2)(a) and (5), 16(1), 21(1) and (2), 24 and 25 of the American Convention; cf. para. 50 of this judgment.

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14. My question was motivated by concern about the destruction of the family roles and the fragmentation of the social fabric and cultural identity of the members of the Maya-Achí people who had been victimized, and the consequent “loss of the transmission of oral knowledge” (above all, owing to the massacre of the women and elders). [FN4] Now that such a long time has passed since the massacre took place, can the damage caused still be repaired?

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[FN4] See note 2, p. 91 (in Spanish, for internal circulation only).

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15. In his answer to my question, the expert witness, Augusto Willemsen-Díaz, focusing on the issue of the oral transmission of the Mayan “millenary culture” considered that, although it was true that the dead were no longer able to communicate fully with the living, and that the principle “spiritual guide” had been “eliminated,” which was an irreparable loss, nevertheless:

"Collectively there is perhaps hope, because there are still some who are bearers and reproducers of the captivating ancient traditions of the Mayas. I hope they are able to react and rebuild a little this extraordinary culture they possessed and maintained for almost 500 years until this terrible event occurred, and I hope they find [...] the strength to recover a large percentage of this magnificent culture they possessed and still possess. [...] I believe it has been significantly harmed [...]. I profoundly hope they are able to recover and readapt and rebuilt this captivating culture." [FN5]

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[FN5] See note 2, p. 92 (in Spanish, for internal circulation only).

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16. In this judgment on reparations, the Court has duly taken into account the temporal dimension of this important cultural element (paras. 49(12) and (82)). The Court has duly emphasized the spirituality of the members of the Maya Achí community, not only in their relationship with the land, but also in their “close relationship between the living and the dead,” expressed through “the practice of burial rites, as a form of permanent contact and solidarity with their ancestors. The transmission of knowledge and culture is a role assigned to the elders and women” (para. 85).

17. In the Case of the Plan de Sánchez Massacre (reparations), the Court added:

"the victims were unable to bury appropriately their next of kin who had been executed in the massacre or practice funeral rites in accordance with their traditions. And, it is necessary to recall the special significance for the Mayan culture, and particularly the Maya-Achí culture, of the funeral rites, and the magnitude of the damage caused to the victims because these rites were not respected. Moreover, it has been proved that, owing to the conditions of decomposition and calcination in which the remains were found after the exhumations conducted in 1994 and 1996, only a few victims could bury their next of kin and perform the corresponding ceremonies [...]. It has been proved that the death of the women and elders, oral transmitters of the Maya-Achí culture caused a cultural vacuum" (para. 87(a) and (b)).

### III. Reparations for State Crime

18. It was essential that, when deciding and ordering a wide range of reparations (pecuniary and non-pecuniary) in its judgment, based on the provisions of Article 63(1) of the American Convention on Human Rights, the Inter-American Court should take into account the aggravating circumstances of the violations in the Case of the Plan de Sánchez Massacre. Moreover, the reparations ordered have an individual and a collective or community dimension. Thus, together with the pecuniary damage, when determining the non-pecuniary damage, the Inter-American Court has stressed the "aggravated impact" of the facts – their particular gravity – for the members of the Maya-Achí people (paras. 81 and 83).

19. The Court recalled, inter alia, that the surviving victims were forced to accept the presence of the perpetrators in the same common areas, and were stigmatized, because they were accused of being guilty of the facts, so that they have lived "in a permanent state of silence" (paras. 49(15) and 87(c)) – the torment of silence – in the face of the continuation, up until the present, of impunity, which has caused profound anguish, frustration and impotence (para. 87(e)). Also, the consensus which was prevalent in the Maya-Achí community, and its cultural values of respect for its neighbors and community service, were replaced by force, imposing a militarized structure, with authoritarian practices and the arbitrary use of power, fragmenting the community and causing it to lose its basic points of reference (paras. 49(16) and 87(d)).

20. The damage has continued over time, over more than 22 years of silence and impunity. The Plan de Sánchez massacre, perpetrated on July 18, 1982, was conceived, planned and authorized by the State, at the highest level, and brutally executed (by means of summary executions, torture, rape and humiliations) by State agents, as part of a State policy. Thereafter, the State took measures to ensure impunity. The Plan de Sánchez massacre – I must insist – was carried out within the framework of a clear and confirmed State policy, responsible for 626 massacres attributed to the State's security forces (in the period from 1978 to 1984) and, according to the report of the Historical Clarification Commission of Guatemala (cited in the application in this case), these massacres were addressed at "previously identified" individuals and groups of individuals, in order to "destroy an ethnic group," and "were intended the exterminate whole Mayan communities." [FN6]

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[FN6] Cf. also, in addition to my separate opinion in the judgment on merits in this case (paras. 2-3), the report of the Historical Clarification Commission, Guatemala - Memoria del Silencio, tomo III, Guatemala, CEH, 1999, pp. 316-318, 358, 375-376, 393, 410 and 416-423.

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21. The Plan de Sánchez massacre, almost miraculously (given the brutalized world in which we live), managed to reach an international tribunal such as the Inter-American Court, and must enter the annals of contemporary public international law. Faced with events such as those of the instant case, what have those who write on legal doctrine and who insist on denying the existence of State crime to say? How much longer will they close their eyes to reality? The authority of the argument is more important than the “argument” of the respective “authority,” which is disproved by the facts. State crime exists; this cannot be denied. The facts of the Plan de Sánchez massacre prove it authentically.

22. In my opinion, the international responsibility of the State and the international criminal liability of the individuals who perpetrated the crime are absolutely complementary and not parallel or self-exclusive. The State cannot exempt itself from its own responsibility for crimes committed by its agents in its name and in implementation of a State policy. Contrary to what some contemporary legal doctrine alleges, *societas delinquere potest*. Furthermore, it is not impossible or overwhelmingly difficult to establish the reparations for State crimes, as the Inter-American Court has shown in this judgment.

23. In addition to the reparations for pecuniary and non-pecuniary damage, the Court has ordered other forms of reparation, bearing in mind the aggravating circumstances of the violations in the Case of the Plan de Sánchez Massacre. Thus, the Court’s judgment has ordered a series of other types of reparation (paras. 93-111) to rehabilitate the surviving victims, to combat impunity, to ensure the public acknowledgement of State responsibility so as to make reparation to the victims, to preserve the memory of the victims executed in the massacre, to preserve the collective memory of the Maya Achí community, to promote and disseminate the Maya Achí language, and to implement a widespread development program for the members of the communities affected by the facts of this case (including health, education, housing, production and infrastructure).

24. I consider that measures of reparations designed to preserve the collective memory are particularly significant. As I indicated in my previous separate opinion in the judgment on merits in this same Case of the Plan de Sánchez Massacre:

"The collective conscience of the members of the Mayan people has given eloquent testimony of its spiritual, individual and collective existence, which identifies, connects and distinguishes them. The fate of each one of them is inescapably linked to that of the other members of their communities" (para. 43).

In summary, as I have stated in so many opinions in different cases decided by the Inter-American Court, I consider that the human conscience is the material source of all law.

25. Whether the reparations ordered in this judgment of the Court are called punitive damages – which should evidently cause those who deny the existence of State crime to shudder – or “exemplary reparations,” or any other expression of this type, their basic purpose remains the same: they recognize the extreme gravity of the facts, punish the State responsible for the grave violations committed, acknowledge the extreme sacrifice of the victims who died and alleviate the sacrifice of the surviving victims, and establish a guarantee of non-repetition of the harmful acts. Whatever they are called, their basic purpose is always the same, they are for the benefit of the victims (direct and indirect) and the population of the defendant State as a whole, because their purpose is to rebuild the damaged social fabric.

26. The Westphalian international jurists of our days need to awaken from their mental lethargy: the Plan de Sánchez massacre was but one of the 626 State massacres that comprised an explicit pattern of extermination, executed over a brief period of time, and, up until today, it is the only one that has been filed before an international tribunal, the Inter-American Court of Human Rights. How many more massacres have been perpetrated over recent years, and are still being perpetrated in different latitudes, without us knowing anything about them, in the face of the criminal indifference of the State, [FN7] which was historically conceived and created to achieve the common good (not for political repression or the satisfaction of private financial interests)! How is it possible to deny the existence of State crime?

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[FN7] And the media.

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#### IV. Epilogue: The Primacy of Law of Brute Force

27. State crime exists and to continue denying this – as in the case of some international legal doctrine – is to close ones eyes, partially accept impunity, and do a disservice to the development of international public law. As I have already mentioned in this separate opinion (para. 13, supra), the defendant State took a positive step in the contentious proceeding before the Court by acknowledging its international responsibility for the grave human rights violations in the instant case; it has also demonstrated a constructive attitude during the contentious proceeding. This, added to the Court’s judgments on merits and reparations in this Case of the Plan de Sánchez Massacre, signifies a general acknowledgement of the necessary primacy of law over brute force.

28. This is extremely significant, given the times in which we live, when there is a regrettable increase in the use of force in so many contemporary national and international armed conflicts. Demonstrating a truly irresponsible attitude, the apologists of the use of force seem to forget the suffering of previous generations and the lessons of the not so very distant past. For them the ends justify the means.

29. It should be recalled that the ancient Greeks had already realized the devastating effects of the use of brute force and war on both the vanquished and the victors, revealing the immorality of substituting the ends for the means; from the time of Homer’s Iliad to the present, all “belligerents” have become “means”, things, in a senseless power struggle, incapable of “subjecting their actions to their thoughts.” As Simone Weil observed with such insight, the

terms “oppressors and oppressed” almost lose their significance in the face of the impotence of all men before the machine of repression and war, converted in a machine for the destruction of the spirit and the fabrication of insensitivity. [FN8]

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[FN8] S. Weil, *Reflexiones sobre las Causas de la Libertad y de la Opresión Social*, Barcelona, Ed. Paidós/ Universidad Autónoma de Barcelona, 1995, pp. 81-82, 84 and 130-131.

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30. As in Homer’s *Iliad*, there are no victors or vanquished, all are taken by force, possessed by the war, degraded by the devastation caused by the brutality and the massacres. [FN9] The brutality and the massacres that took place in past decades and those taking place in different part of the world in these ominous times in which we live in 2004, have a profoundly de-civilizing effect. The dangerous escalation of violation at this start of the twenty-first century suggests that human beings appear to have learned little or nothing from the sufferings of past generations, which can only be limited by faithful adherence to law and its basic principles. Law is more important than force, just as conscience is more important than will [FN10] (the ultimate material source of all law). This judgment of the Inter-American Court provides eloquent testimony of the necessary primacy of law over brute force.

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[FN9] S. Weil, "L'Iliade ou le Poème de la Guerre (1940-1941)" in *Oeuvres*, Paris, Quarto Gallimard, 1999, pp. 527-552.

[FN10] A.A. Cançado Trindade, "El Primado del Derecho sobre la Fuerza como Imperativo del Jus Cogens", in *Doctrina Latinamericana del Derecho Internacional*, vol. II (eds. A.A. Cançado Trindade and F. Vidal Ramírez), San José, Costa Rica, Inter-American Court of Human Rights, 2003, pp. 62-63.

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