Inter-American Court of Human Rights

Case of the "Juvenile Reeducation Institute" *v.* Paraguay

Judgment of September 2, 2004
(Preliminary Objections, Merits, Reparations and Costs)

In the Case of the "Juvenile Reeducation Institute",

the Inter-American Court of Human Rights (hereinafter "the Court" or "the Inter-American Court"), composed of the following judges[*]:

Sergio García Ramírez, President;
Alirio Abreu Burelli, Vice President;
Oliver Jackman, Judge;
Antônio A. Cançado Trindade, Judge;
Cecilia Medina Quiroga, Judge;
Manuel E. Ventura Robles, Judge;
Diego García-Sayán, Judge, and
Víctor Manuel Núñez Rodríguez, Judge *ad hoc*;

also present,

Pablo Saavedra Alessandri, Secretary, and
Emilia Segares Rodríguez, Deputy Secretary,

pursuant to Articles 29, 31, 37.6, 56, and 58 of the Rules of Procedure of the Court (hereinafter "the Rules of Court")[1] and Article 63(1) of the American Convention on Human Rights (hereinafter "the Convention" or "the American Convention"), deliver the following judgment.

I
INTRODUCTION OF THE CASE

1. On May 20, 2002, the Inter-American Commission on Human Rights (hereinafter "the Commission" or "the Inter-American Commission") filed an application with the Court against the State of Paraguay (hereinafter "the State," "the respondent State," or "Paraguay") concerning a case that had originated with petition No. 11,666, received at the Commission's Secretariat on August 14, 1996.

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[1] The present judgment is delivered in accordance with the Rules of Procedure that the Court approved at its XLIX regular session, by order dated November 24, 2000, which entered into force on June 1, 2001, and in accordance with the partial amendment to those Rules, which the Court approved at its LXI regular session in a November 25, 2003 order that entered into force on January 1, 2004.

2. The Commission filed the application pursuant to Article 61 of the American Convention, seeking a judgment from the Court as to whether the State had violated, in relation to its obligation under Article 1(1) (Obligation to Respect Rights) of the Convention, Article 4 (Right to Life) of that instrument by virtue of the deaths of inmates Elvio Epifanio Acosta Ocampos, Marco Antonio Giménez,[2] Diego Walter Valdez, Sergio Daniel Vega Figueredo,[3] Sergio David Poletti Domínguez,[4] Mario Álvarez Pérez,[5] Juan Alcides Román Barrios, Antonio Damián Escobar Morinigo[6] and Carlos Raúl de la Cruz,[7] all of whom perished as a result of a fire at the *Instituto de Reeducación del Menor "Coronel Panchito López"* ["Colonel Panchito López" Juvenile Reeducation Institute] (hereinafter "the Center" or "the 'Panchito López' Center"), and by virtue of the death of Benito Augusto Adorno, who died of a bullet wound sustained at the Center. The Commission also asked the Court to decide whether the State had violated Article 5 (Right to Humane Treatment) of the American Convention, in relation to its obligation under Article 1(1) thereof, by virtue of the injuries and smoke inhalation that minors Abel Achar Acuña, José Milicades Cañete,[8] Ever Ramón Molinas Zárate, Arsenio Joel Barrios Báez,[9] Alfredo Duarte Ramos, Sergio Vincent Navarro Moraez, Raúl Esteban Portillo, Ismael Méndez Aranda, Pedro Iván Peña, Osvaldo Daniel Sosa, Walter Javier Riveros Rojas, Osmar López Verón,[10] Miguel Coronel,[11] César Ojeda,[12] Heriberto Zarate, Francisco Noé Andrada, Jorge Daniel Toledo, Pablo Emmanuel Rojas, Sixto Gonzáles Franco,[13] Francisco Ramón Adorno, Antonio Delgado, Claudio Coronel Quiroga, Clemente Luis Escobar

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[2] This person's name also appears as Marcos Antonio Jiménez. The Court will henceforth refer to this person as Marco Antonio Jiménez.

[3] This person's name also appears as Sergio Daniel Vega. The Court will henceforth use the name Sergio Daniel Vega Figueredo.

[4] This person's name also appears as Sergio David Poletti. The Court will henceforth use the name Sergio David Poletti Domínguez.

[5] This person's name also appears as Mario del Pilar Álvarez, as Mario Álvarez Pérez, and as Mario Álvarez. The Court will henceforth use the name Mario del Pilar Álvarez Pérez.

[6] This person's name also appears as Antonio Escobar. The Court will henceforth use the name Antonio Damián Escobar Morinigo.

[7] This person's name also appears as Carlos de la Cruz. The Court will henceforth use the name Carlos Raúl de la Cruz.

[8] This person's name also appears as José Milciades Cañete Chamorro. The Court will henceforth use the name José Milciades Cañete Chamorro.

[9] This person's name also appears as Arcenio Joel Barrios Báez. The Court will henceforth use the name Arsenio Joel Barrios Báez.

[10] This person's name also appears as Osmar Verón López. The Court will henceforth use the name Osmar López Verón.

[11] This person's name also appears as Miguel Ángel Coronel Ramírez, and as Miguel Coronel Ramírez. The Court will henceforth use the name Miguel Ángel Coronel Ramírez.

[12] This person's name also appears as César Fidelino Ojeda Ramírez, and as César Fidelino Ojeda. The Court will henceforth use the name César Fidelino Ojeda Acevedo.

[13] This person's name also appears as Sixto González Franco. The Court will henceforth use the name Sixto Gonzáles Franco.

González,[14] Julio César García, José Amado Jara Fernando,[15] Alberto David Martínez, Miguel Ángel Martínez, Osvaldo Espinola Mora,[16] Hugo Antonio Quintana Vera,[17] Juan Carlos Viveros Zarza,[18] Eduardo Vera, Ulises Zelaya Flores,[19] Hugo Olmedo, Rafael Aquino Acuña,[20] Nelson Rodríguez, Demetrio Silguero, Aristides Ramón Ortiz B.[21] and Carlos Raúl Romero Giacomo[22] sustained in three fires at the Center.

3. The Commission also petitioned the Court to find that the respondent State had violated Articles 5 (Right to Humane Treatment), 7 (Right to Personal Liberty), 19 (Rights of the Child), 8 (Right to a Fair Trial) and 25 (Judicial Protection) of the American Convention, all in relation to Article 1(1) thereof, to the detriment of all juveniles incarcerated at the Center at any time in the period between August 14, 1996 and July 25, 2001, and those juvenile inmates subsequently remanded to the country's adult prisons.

4. The Commission's contention was that the "Panchito López' Center embodied a system that was the antithesis of every international standard pertaining to the incarceration of juveniles, given the allegedly grossly inadequate conditions under which the children were interned. Specifically, those conditions involved a combination of: overpopulation, overcrowding, lack of sanitation, inadequate infrastructure, and a prison guard staff that was both too small and poorly trained.

5. According to the Commission, after each of the three fires, all or some of the alleged victims were remanded to adult prisons in Paraguay; it further alleged that the vast majority of the juveniles transferred to adult prisons were in pretrial detention. To make matters worse, the adult prisons to which they were sent were elsewhere in the country, far from the juveniles' defense attorneys and families.

6. The Commission also petitioned the Court, pursuant to Article 63 of the Convention, to order the State to ensure the exercise of the violated rights to the alleged victims and their next of kin and to adopt certain measures of pecuniary and non-pecuniary compensation.

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[14] This person's name also appears as Clemente Luis Escobar and as Clementino Luis Escobar. The Court will henceforth use the name Clemente Luis Escobar González.

[15] This person's name also appears as José Amado Jara Fernández, and as José Amado Jara. The Court will henceforth use the name José Amado Jara Fernández.

[16] This person's name also appears as Osvaldo Mora Espinola. The Court will henceforth use the name Osvaldo Mora Espinola.

[17] This person's name also appears as Hugo Vera Quintana. The Court will henceforth use the name Hugo Antonio Vera Quintana.

[18] This person's name also appears as Juan Carlos Zarza. The Court will henceforth use the name Juan Carlos Zarza Viveros.

[19] This person's name also appears as Cándido Ulice Zelaya Flores. The Court will henceforth use the name Cándido Ulises Zelaya Flores.

[20] This person's name also appears as Rafael Oscar Aquino Acuña. The Court will henceforth use the name Oscar Rafael Aquino Acuña.

[21] This person's name also appears as Arístides Ramón Ortiz Bernal. The Court will henceforth use the name Arístides Ramón Ortiz Bernal.

[22] This person's name also appears as Carlos Raúl Romero García. The Court will henceforth use the name Carlos Raúl Romero Giacomo.

II
COMPETENCE

7. Paraguay has been a State party to the American Convention since August 24, 1989, and accepted the Court's contentious jurisdiction on March 26, 1993. The Court is, therefore, competent to hear the present case under the terms of Articles 62 and 63(1) of the Convention.

III
PROCEEDING BEFORE THE COMMISSION

8. On August 14, 1996, the Center for Justice and International Law (hereinafter "CEJIL" or "the representatives") and the *Fundación Tekojojá* filed a petition with the Inter-American Commission on Human Rights (hereinafter "the Commission" or "the Inter-American Commission").

9. The Commission opened the case on August 27, 1996, and classified it as No. 11,666.

10. On April 27, 1997, the petitioners indicated their willingness to work toward a friendly settlement. Therefore, on May 8 of that year the Commission made itself available to the parties with a view to arriving at a friendly settlement.

11. The parties met several times during the friendly settlement process. During its sessions, the Commission itself held three hearings in connection with this attempt at a friendly settlement.

12. During the course of one friendly-settlement meeting at Commission headquarters on March 23, 1999, the State pledged to present a timetable on the measures being taken to permanently close the 'Panchito López' Center. The Commission conducted an *in loco* visit to Paraguay from July 28 to July 30, 1999. In July 1999, the State presented a timetable of activities aimed at the Center's definitive closing. According to that plan, the alleged victims were to have been permanently transferred by late November of that year.

13. The first fire at the Center broke out on February 11, 2000. On March 20, 2000 the State sent the Commission a report on the fire, in response to a request the Commission made on February 24 of that year.

14. During the course of the friendly settlement proceeding, on April 4, 2000, Paraguay informed the Commission that forty children had been transferred to the *Centro Educativo Integral Itauguá* [Itauguá Comprehensive Education Center].

15. On October 10, 2000, during its 108th regular session, the Commission held another hearing where the State once again pledged to permanently close the 'Panchito López' Center, this time within six months of the date of the hearing. The Commission informed it that if by the end of that six-month period the Center had not been permanently shut down, the Commission would terminate its intervention as organ of friendly settlement and proceed to process the case in accordance with the Convention.

16. The Commission held another hearing on March 1, 2001, on the heels of a second fire at the Center on February 5, 2001. At that hearing, Paraguay pledged,

for a third time, to permanently shut down the Center by no later than late June 2001. The Commission stated that if the facility was not closed by that date, which it considered final, it would terminate its intervention as organ of friendly settlement and proceed to process the case in accordance with the Convention.

17. On July 25, 2001, another fire broke out at the Center; the petitioners withdrew from the friendly settlement process that same day.

18. The Commission terminated the friendly settlement process on July 26, 2001. It asked the State to present its final observations on the merits of the petition within two months' time and scheduled a hearing to discuss the case.

19. On July 30, 2001, the State sent the Commission a report on the July 25, 2001 fire and announced the Center's permanent closing and the fact that 255 inmates had been moved to various adult prisons in the country.

20. The petitioners requested precautionary measures for Benito Augusto Adorno, a child shot by a guard at the Center on July 25, 2001; they also requested precautionary measures for the 255 children relocated to various adult prisons in the country as a result of the Center's closing.

21. On August 8, 2001, the Commission requested that the State adopt the following precautionary measures:

> 1. Provide the minor Benito Augusto Adorno with the necessary medical care and medications.
> 2. Immediately transfer the juveniles to the Itauguá Education Center, as [the] government had pledged to the Inter-American Commission on Human Rights, or equip other facilities to accommodate the juveniles currently being held in adult prisons.
> 3. On the timetable for relocating the juveniles being held in adult prisons, make certain that juveniles now housed in adult prisons are completely segregated from the adult prisoners.
> 4. Facilitate the juveniles' access to their defense attorneys and family visits.
> 5. Investigate the factors that necessitated these measures and punish those responsible.

22. On October 24, 2001, the State sent the Inter-American Commission the information it had requested on July 26, 2001 (*supra* para. 18).

23. On November 12, 2001, during its 113th session, the Commission received news that young Benito Augusto Adorno had died from the bullet wound he sustained at the Center on July 25, 2001.

24. On December 3, 2001, the Commission approved Report No. 126/01, on the merits, wherein it concluded that:

> The Republic of Paraguay violated the right to life, protected by Article 4 of the American Convention on Human Rights, to the detriment of: Elvio Epifanio Acosta Ocampos, Marcos Antonio Giménez, Diego Walter Valdez, Sergio Daniel Vega Figueredo, Sergio David Poletti Domínguez, Mario Alvarez Pérez, Juan Alcides Román Barrios, Antonio Damián Escobar Morinigo, Carlos Raúl de la Cruz and Benito Augusto Adorno.
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> The Republic of Paraguay violated the right to humane treatment, protected under Article 5 of the American Convention, to the detriment of: Abel Achar Acuña, José Milicades Cañete, Ever Ramón Molinas Zárate, Arsenio Joel Barrios Báez, Carlos Raúl de la Cruz, Alfredo Duarte Ramos, Sergio Vincent Navarro Moraez, Raúl Esteban Portillo, Ismael Méndez Aranda, Pedro Iván Peña, Osvaldo Daniel Sosa, Walter Javier Riveros Rojas, Osmar López Verón, Miguel Coronel, César Ojeda, Heriberto Zarate, Antonio

Escobar, Francisco Noé Andrada, Jorge Daniel Toledo, Pablo Emmanuel Rojas, Sixto González Franco, Francisco Ramón Adorno, Antonio Delgado, Claudio Coronel Quiroga, Clemente Luis Escobar González, Julio César García, José Amado Jara Fernando, Alberto David Martínez, Miguel Angel Martínez, Osvaldo Espinola Mora, Hugo Antonio Quintana Vera and Juan Carlos Vivero Zarza, Eduardo Vera, Ulises Zelaya Flores, Hugo Olmedo, Rafael Aquino Acuña, Nelson Rodríguez, Demetrio Silguero, Aristides Ramón Ortiz B. and Carlos Raúl Romero Giacomo, by virtue of the injuries they sustained and the fumes they inhaled during the three fires. It also violated the right to human treatment in the case of all the children and adolescents held at the 'Panchito López' Center between August 1996 and July 2001 and subsequently transferred to the country's adult prisons.

The Republic of Paraguay violated the rights protected in Article 5 (right to humane treatment), Article 7 (right to personal liberty), Article 19 (the rights of the child), Article 8 (the right to a fair trial), and Article 25 (right to judicial protection) of the American Convention, to the detriment of the children and adolescents interned at the 'Panchito López' Juvenile Reeducation Institute between August 1996 and July 2001 and subsequently sent to adult prisons in the country. Because of those violations, the Paraguayan State has failed to honor its obligation under Convention Article 1(1), which is to respect those rights and ensure their free and full exercise to all persons subject to its jurisdiction.

25. Based on the foregoing findings, the Commission recommended that the State:

1. Immediately transfer the children and adolescents to proper centers separate from adult prisons, but discount this measure as a long-term solution to the problem of where to house juvenile detainees.

2. Adopt the necessary measures to put the Child and Adolescent Code into full effect immediately.

3. Adopt the necessary measures to guarantee children and adolescents an effective right of defense, to reduce the length of time they are held in preventive custody and make greater use of alternatives to deprivation of liberty.

4. Adopt the measures needed to investigate the violations established in this report and to punish those responsible.

5. Adopt the necessary measures so that the children and adolescents who were held at the 'Panchito López' Reeducation Institute or, where applicable, the next of kin of the deceased adolescents, receive adequate, prompt and effective compensation for the violations herein established.

6. Adopt the necessary measures to prevent a recurrence of events and practices such as these.

7. Transfer detained juveniles who have physical handicaps, addictions and mental disorders to the proper health centers, and give those suffering from addictions the proper treatment.

8. Abolish prolonged solitary confinement and the practice of sending children and adolescents to Emboscada prison as a form of punishment.

26. On December 20, 2001, the Commission sent that Report to the State and gave it two months to comply with the recommendations made therein. On February 18, 2002, the State asked the Commission for an extension in order to comply with the recommendations made in the report on the merits. The Commission granted that extension on February 26, 2002, giving the State a two-month extension starting as of that date.

27. On April 30, 2002, the State informed the Commission of the measures that it was taking to comply with the recommendations made in Commission Report No. 126/01.

IV
PROCEEDING BEFORE THE COURT

28. The Commission filed an application with the Court on May 20, 2002, and designated Messrs. José Zalaquett and Santiago A. Canton as its delegates, with Ariel Dulitzky, Ignacio Álvarez and Mary Beloff as legal advisors.

29. Once the President of the Court (hereinafter "the President") had made a preliminary review of the application, on June 25, 2002 the Secretariat of the Court (hereinafter "the Secretariat") notified the respondent State of the application and its appendixes and advised it of the deadlines for answering the application and for designating its representation in the case. That same day, by instruction of the President, the Secretariat advised the State of its right to appoint a Judge *ad hoc* to participate in the deliberations on the instant case.

30. On June 21, 2002, the Court issued an order wherein it admitted the application filed in the instant case with regard to the persons named in the application. The Court also asked the Commission to identify by name, within three months, "the children and adolescents confined in the 'Panchito López' Juvenile Reeducation Institute between August 1996 and July 2001, and subsequently remanded to adult prisons in the country." It advised the Commission that if that information was not provided the case would still go forward, but only those persons named in the application would be regarded as the alleged victims in the case.

31. On June 27, 2002, pursuant to Article 35(1)(d) and (e) of the Rules of Court, the Secretariat sent CEJIL, as original claimant in the case before the Commission and as representative of the alleged victims, notification that the application had been filed so that, pursuant to Article 35(4) of the Rules of Court,[23] it might present its brief of pleadings, motions and evidence (hereinafter "brief of pleadings and motions") within a period of 30 days.

32. On July 18, 2002, the State designated Mr. Julio Duarte Van Humbeck as its Agent, and Mr. Mario Sandoval as its Alternate Agent.

33. On July 31, 2002, after being granted an extension, the State designated Mr. Víctor Manuel Núñez Rodríguez as Judge *ad hoc* in the instant case. It also provided a new address for official receipt of all pertinent communications.

34. On September 19, 2002, the Commission sent a "complete list of the names of the inmates at the Panchito López Juvenile Reeducation Institute between August 1996 and July 2001." This was the list that the State had sent to the Commission on August 26, 2002. The Commission stated further that it was in the process of developing a single database, which it would send to the Court "as soon as possible." On October 2, 2002, the Secretariat asked the Commission to re-send certain pages of that list that were illegible. On October 4, 2002, the Commission reported that the copies it provided to the Court were the only ones it had in its possession. The Commission therefore petitioned the Court to order the State to forward those pages to the Court, as they were official documents prepared by the Paraguayan authorities.

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[23] Rules of Procedure approved by the Inter-American Court of Human Rights during its XLIX regular session, by order dated November 24, 2000, which entered into force on June 1, 2001. This article and others were amended by the Court at its LXI regular session by order dated November 25, 2003. The amendment took effect on January 1, 2004.

35. On October 15, 2002, after being given two extensions, the representatives submitted their written brief of pleadings and motions wherein they alleged, in addition to violating the Articles cited by the Commission (*supra* 2 and 3), that the State had also violated Article 26 (Progressive Development) of the American Convention, and Article 2 (Domestic Legal Effects) thereof. The representatives also petitioned the Court to order the State to adopt certain measures of reparations and to reimburse costs and expenses.

36. On November 19, 2002, the Commission sent the "combined chart" of the alleged victims in the case mentioned in its September 19, 2002 note (*supra* para. 34).

37. On November 14, 2002, the State asked the Court to order the Commission to provide certain minutes of the hearings it (the Commission) had held on the case. On December 5, 2002, the Secretariat asked the State to explain the reason why it wanted the Commission to be instructed to provide the minutes of the hearings and what the necessity was. In a communication of that same date, the State argued that the minutes in question accurately reflected the positions of the parties.

38. On December 13, 2002, the State, after being granted four extensions, filed preliminary objections, answered the application, and presented its observations on the brief of pleadings and motions. The State's preliminary objections were as follows: 1) a legal defect in the presentation of the application; 2) failure to previously assert violation of Article 26 of the Convention; and 3) the existence of two complaints, one in a domestic court and another in an international court, with identical subjects, object and cause of action.

39. After having been granted three extensions, on February 21, 2003 the Commission presented its observations on the brief of pleadings and motions filed by the representatives on October 15, 2002 (*supra* para. 35). In that same submission, the Commission also presented its comments on the preliminary objections raised by the State on December 13, 2002 (*supra* para. 38). The Commission provided appendixes with that brief.

40. On February 24, 2003, the representatives sent new copies of the illegible or incomplete pages in the appendixes to its brief of pleadings and motions (*supra* para. 35).

41. On January 9, 2004, the Commission designated Mrs. Lilly Ching as a legal advisor, in place of Mrs. Mary Beloff.

42. On March 2, 2004, the President issued an order in which, pursuant to Article 47(3) of the Rules of Procedure, he instructed the following persons to make their statements in the presence of a person with legal authority to authenticate documents and statements (affidavits):

i. the witnesses offered by the Inter-American Commission: Walter Javier Riveros Rojas, Osmar López Verón, Pablo Emmanuel Rojas, Antonio Delgado, Francisco Ramón Adorno, Raúl Ramírez Bogado and Jorge Bogarín González;

ii. the witnesses offered by the representatives: Arsenio Joel Barrios Báez, Clemente Luis Escobar González, Hugo Antonio Vera Quintana,

Concepción Ramos Duarte, María Teresa de Jesús Pérez, Silvia Portillo Martínez, Dirma Monserrat Peña and María Estela Barrios;

iii. the witnesses offered by the Commission and by the representatives: Jorge Daniel Toledo and Sixto Gonzáles Franco;

iv. the witnesses offered by the State: Fernando Vicente Canillas Vera, Teresa Almirón, Michael Sean O'Loingsigh, Teófilo Báez Zacarías, Estanislao Balbuena Jara, Carolina Nicora, Eduardo Giménez, Carolina Laspina de Vera, Mirtha Isabel Herrera Fleitas, Inés Ramona Bogarín Peralta, José Lezcano, Ana María Llanes, María Teresa Báez, Elizabeth Flores, Maureen Antoinette Herman, Teresa Alcaraz de Mencia, María Vilma Talavera de Bogado, Carlos Torres Alújas, Christian Rojas, Rubén Valdéz and Miguel Ángel Insaurralde Coeffier;

v. the expert witness offered by the Commission: Carlos Arestivo; and

vi. the expert witnesses offered by the State: Jorge Rolón Luna and Pedro Juan Mayor Martínez.

43. In that same order, the President also set a fixed twenty-day time period, not subject to extension or deferment and commencing as of the receipt of the affidavits (*supra* para. 42), for each party to present any comments it deemed pertinent with regard to the affidavits submitted by the other parties. In that same order (*supra* para. 42), the President summoned the Inter-American Commission, the representatives and the State to a public hearing to be held at the seat of the Court starting on May 3, 2004, to hear the parties' final oral arguments with regard to the preliminary objections and eventual merits, reparations and costs, and the testimony of the witnesses and experts named below (*infra* para. 79). In that same order of March 2, 2004 (*supra* para. 42), the also President advised the parties that they had until July 5, 2004 to submit their final written pleadings.

44. On March 31, 2004, the representatives presented the affidavits (*supra* para. 42 and *infra* para. 70). On April 6, 2004, the representatives forwarded the testimony of Mrs. Silvia Portillo Martínez, which was not sworn in the presence of a person authorized by law to authenticate documents and statements. That statement had been requested in the President's order of March 2, 2004 (*supra* para. 42), but was not sent with the statements received at the Secretariat on March 31, 2004. The representatives further advised that Sixto Gonzáles Franco, Concepción Ramos Duarte and María Estela Barrios, offered as witnesses, had been unable to make their statements in the presence of a person authorized by law to authenticate documents and statements. The representatives reported that they had not sent either video or audio tape recordings of those statements because of the "high costs" involved. On April 16, 2004, the representatives sent the originals of the statements they had sent to the Court via facsimile on March 31, 2004.

45. On March 31, 2004, the State presented the statements made by the witnesses and experts in the presence of the Office of the Chief Government Notary of the Republic of Paraguay (*supra* para. 42). In that note the State reported that it was unable to take statements from witnesses María Teresa Baez and José Lezcano, and asked that some of the witnesses and experts it had offered and who had provided expert opinions and other testimony at the Office of the Chief Government Notary of the Republic of Paraguay, be permitted to appear at the public hearing. On

April 6, 2004, the State sent the originals of the statements that it had sent by fax on March 31, 2004, and enclosed copies of two books.[24]

46. On April 2, 2004, the Commission presented the affidavits of the witnesses and experts it had offered (*supra* para. 42). On April 5, 2004, the Commission re-submitted the affidavits and stated that "for reasons of *force majeure"* it had been unable to obtain sworn statements from witnesses Walter Javier Riveros Rojas, Pablo Emmanuel Rojas and Antonio Delgado. It also enclosed a video of the testimony given by Messrs. Francisco Ramón Adorno, Osmar López Verón and Raúl Guillermo Ramírez Bogado, and another with the testimony of Jorge Bogarín González and expert witness Carlos Arestivo. The Commission informed the Court that the affidavit of Mr. Jorge Daniel Toledo would be sent by the representatives. On April 7, 2004, the Commission sent the originals of the statements it had sent by facsimile on April 2, 2004. The representatives did not file any comments with regard to those statements.

47. On April 7, 2004, the President decided not to authorize the State's request that some of its witnesses and experts be permitted to appear at the public hearing (*supra* para. 45), as the President deemed it unnecessary.

48. On April 18, 2004, the representatives informed the Court that Mr. Eduardo Gallardo was unable to provide an expert opinion. They also reported that Mrs. Liliana Tojo would be joining the team of representatives at the public hearing. They further reported that witnesses Pedro Iván Peña and Raúl Esteban Portillo, former inmates at the Center, would be unable to attend the public hearing. They therefore begged the Court's permission to present a video at that hearing where the two young men in question would give their testimony. On April 21, 2004, on instructions from the Court, the Secretariat asked the representatives to send the video so that it might be provided to the other parties, in order that they, in turn, might make whatever comments they deemed pertinent. That way, the video would not have to be shown during the public hearing. On April 26, 2004, the representatives sent the testimony of Raúl Esteban Portillo and Pedro Iván Peña, both in writing and on video. Those statements were not made in the presence of a person authorized by law to authenticate documents and statements (*infra* para. 72). On May 18, 2004, the Commission informed the Court that it had no comments with regard to those statements. On June 10, 2004, the State informed the Court that it was reserving the right to comment on these pieces of testimony when it presented its final written submissions.

49. On April 19, 2004, the representatives reported that they did not, for the moment, have any clarification or observation on the affidavits given by the witnesses and experts at the Office of the Chief Government Notary of the Republic of Paraguay and submitted by the State (*supra* para. 45).

50. On April 21, 2004, the Commission informed the Court that "for reasons of f*orce majeure,"* witnesses Miguel Ángel Coronel Ramírez and César Fidelino Ojeda Acevedo would not be appearing at the hearing.

51. On April 27, 2004, the State presented its comments on the affidavits presented by the Commission (*supra* para. 46) and by the representatives (*supra*

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[24] "*Anteproyecto Código de Ejecución Penal para la República del Paraguay*" and "*La Protección Jurídica en el Ámbito Carcelario Paraguayo*".

para. 44). It objected to the testimony of Mrs. Silvia Portillo Martínez, offered by the representatives, and the expert testimony of Mr. Carlos Arestivo, offered by the Commission. As for the affidavit by Jorge Bogarín González, a witness offered by the Commission, the State asked the Court to request from the Ministry of Justice and Labor "copies of the pertinent official court orders issued by that former magistrate in his capacity as a criminal court judge."

52. On April 28, 2004, the Commission presented its comments on the affidavits that the State's witnesses and experts gave at the Office of the Chief Government Notary of the Republic of Paraguay (*supra* para. 45). In those comments, the Commission objected to portions of the testimony given by Fernando Vicente Canillas Vera, Estanislao Balbuena Jara and Teresa de Jesús Almirón Fernández. It also indicated that it had no comments on the affidavits given by the representatives' witnesses (*supra* para. 44).

53. On April 28, 2004, the Commission asked the Court to consult the respondent State about the appendixes that some of the State's witnesses had supplied when they made their statements at the Office of the Chief Government Notary of the Republic of Paraguay. On May 1, 2004, the Court asked the State to submit the documents in question. That request was reiterated on May 31, 2004. On June 3, 2004, the State presented copies of the documents that some of the State's witnesses had provided at the time they made their statements at the Office of the Chief Government Notary of the Republic of Paraguay.

54. On May 3 and 4, 2004, at a public hearing on preliminary objections and eventual merits, reparations and costs, the Court heard the testimony of the witnesses and experts offered by the Inter-American Commission and the representatives. The Court also heard the final oral arguments of the Inter-American Commission, the representatives and the State.

There appeared before the Court:

for the Inter-American Commission on Human Rights:

Santiago Canton, delegate;
Ignacio J. Álvarez, advisor, and
Lilly Ching, advisor;

for the representatives:

Viviana Krsticevic, Executive Director of CEJIL;
Raquel Talavera, attorney with CEJIL;
María Clara Galvis, attorney with CEJIL, and
Liliana Tojo, attorney with CEJIL;

for the State:

Julio Duarte Van Humbeck, agent;
Mario Sandoval, alternate agent;
Alberto Sandoval Diez, advisor, and
Edgar Taboada Insfrán, advisor;

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

Dionicio Vega;
Rosalía Figueredo Britez;
Juan Antonio y Concepción de la Vega Elorza, and
María Zulia Giménez González;

witnesses offered by the representatives:

Teofista Domínguez Riveros, and
Felipa Benicia Valdéz;

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

Emilio Arturo García Méndez, and
Mario Ramón Torres Portillo;

expert witnesses offered by the representatives:

Luis Emilio Escobar Faella, and
Ana Clerico-Deutsch.

55. Although summoned by the President of the Court, one witness did not appear to deliver his testimony.[25]

56. At the public hearing, both the respondent State and the representatives submitted various documents to the Court (*infra* para. 74).

57. On May 4, 2004, the Commission advised the Court that it had been informed that witness María Zulia Giménez, offered by the representatives, was related to one of the representatives.

58. On July 5, 6 and 7, 2004, the Commission, the State and the representatives, respectively, presented their final written submissions.

59. When they presented their final written submissions, the representatives introduced additional evidence in the form of documents referring to costs and expenses (*infra* para. 75).

60. On August 10, 2004, on instructions received from the President, the Secretariat asked the Commission, the representatives and the State to submit, by no later than August 24, 2004, certain documents as evidence to facilitate adjudication of the case.

61. On August 24, 2004, the representatives submitted, by fax, a portion of the documentary evidence that the Court had requested for better adjudication of the case. It arrived by courier on August 27, 2004. On August 24, 2004, the Commission sent a fax communication concerning the evidence to better adjudicate the case, part of which arrived by courier on August 30, 2004. On August 23, 24 and 25, 2004, the State sent, by fax, a portion of the evidence to better adjudicate the case. That same evidence arrived by courier on August 27, 2004. None of the parties provided all the evidence requested. On September 1, 2004, the Secretariat

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[25] Mrs. Irma Alfonso de Bogarín.

forwarded the evidence that each party had supplied for better adjudication of the case to the other parties.

V
EVIDENCE

62. Before embarking upon its examination of the evidence received, the Court will analyze, in light of the provisions of Articles 44 and 45 of the Rules of Court, certain considerations applicable to this specific case, most of which have been addressed in the Court's own case law.

63. To begin with, the right of both parties to be present in order to confront and cross-examine witnesses preserves the parties' right of defense and applies also in evidentiary matters. This principle is one of the underpinnings of Article 44 of the Rules of Procedure, which provides that the evidence must be received in a proceeding with both parties present, to ensure equality between them.[26]

64. On the matter of receiving and assessing evidence, the Court has previously held that proceedings before this Court are not subject to the same formalities required in domestic judicial proceedings and that admission of items into evidence must be done paying special heed to the circumstances of the specific case and bearing in mind the limits set by respect for legal certainty and procedural balance between the parties.[27] The Court has also taken account of the fact that international case law holds that international courts have the authority to appraise and assess evidence based on the rules of competent analysis, and has thus always avoided rigidly determining the *quantum* of the evidence necessary as the basis for a ruling.[28] This criterion is especially valid regarding to international human rights courts, which –to establish the international responsibility of a State for violation of an individual's rights- have ample flexibility for assessment of the evidence submitted to them regarding the pertinent facts, in accordance with the rules of logic and based on experience.[29]

65. Based on the foregoing, the Court will now proceed to examine and assess the combination of items that constitute the body of evidence in the instant case, following the rules governing reasoned judgment arrived at freely and on the basis of admissible evidence.

A) DOCUMENTARY EVIDENCE

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[26] *Cf. Case of the Gómez Paquiyauri Brothers.* Judgment of July 8, 2004. Series C No. 110, para. 40*; Case of the 19 Tradesmen.* Judgment of July 5, 2004. Series C No. 109, para. 64; and *Case of Molina Theissen*. Reparations (Art. 63(1) American Convention on Human Rights). Judgment of July 3, 2004. Series C No. 108, para. 21.

[27] *Cf. Case of the Gómez Paquiyauri Brothers*, *supra* note 26 para. 41; *Case of the 19 Tradesmen, supra* note 26, para. 65; and *Case of Molina Theissen*, *supra* note 26, para. 23.

[28] *Supra* note 27.

[29] *Cf. Case of the Gómez Paquiyauri Brothers, supra* note 26, para. 41; *Case of the 19 Tradesmen, supra* note 26, para. 65; and *Case of Herrera Ulloa*. Judgment of July 2, 2004, Series C No. 107, para. 57.

66. The Inter-American Commission provided documentary evidence when it filed the brief that accompanied its application (*supra* 2 and 28).[30]

67. The representatives supplied documentary evidence when they filed their written brief of pleadings and motions (*supra* para. 35).[31]

68. The State provided documentary evidence when it filed its brief answering the complaint and comments on the brief of pleadings and motions (*supra* para. 38).[32]

69. The Commission submitted sworn affidavits by witnesses Francisco Ramón Adorno, Osmar López Verón, Raúl Guillermo Ramírez Bogado and Jorge Bogarín González, and the expert opinion of Carlos Arestivo, all given in the presence of a person authorized by law to authenticate documents and statements (*supra* para. 46), in response to the President's instruction in the Order of March 2, 2004 (*supra* para. 42).[33] What follows is the Court's summary of the statements submitted.

a) Testimony of Francisco Ramón Adorno, former inmate at the Center

The witness was incarcerated in the Center, where a record was kept with the particulars on every inmate there. Before being moved to the Center, the witness went through the Public Prosecutor's Office, as an order for his detention had been issued. Inmates at the Center were segregated according to those who had criminal records and those who did not; inmates were not segregated by age, by reason for detention, or by convicted inmates as opposed to inmates awaiting or standing trial.

The facility out of which the Center operated was inadequate, as it did not provide sufficient space. There were no individual cells; instead, the facility had cellblocks measuring approximately 5 by 12 meters. Each cellblock housed nearly 30 people. Those inmates who slept on beds, slept two to a bed. Those who didn't have beds slept on uncovered mattresses. The relatives provided them with sheets and pillows. As there was no janitorial staff, the cells and the outside areas were clean only if the inmates cleaned them; any cleaning had to be done with water, since inmates were not supplied with cleaning agents and materials. The air at the Center was polluted and the cellblocks had a foul odor. The lavatories with latrines had no doors and were located inside the cellblock. Only one shower was open for the 30 inmates, who therefore had to bathe by turns. The State did not supply the inmates with the personal hygiene items needed for good health and cleanliness. They were not given clothing and had to wash what clothing they had. There was a ceiling light in the middle of the cellblock, and two rather small windows with bars.

The food was very poor while he was in the Center. It was always "beans," which at times were infested with worms. The inmates themselves had to take turns cooking.

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[30] *Cf.* file of appendixes to the application, volumes I a III, appendixes 1 a 57, folios 1 a 1022.

[31] *Cf.* file of appendixes to the written brief of pleadings and motions, volumes I and II, appendixes 1 a 48, folios 1-459.

[32] *Cf.* file of appendixes to the brief of preliminary objections, answer to the application and observations on the pleadings and motions, volumes I a IV, appendixes 1 a 42, folios 1-1621.

[33] *Cf.* file of written statements supplied by the State, the Inter-American Commission and the alleged victims' representatives, volume I, folios 117-220.

On Tuesdays, Thursdays, Saturdays and Sundays, he was not allowed to leave the cellblock. Since those were visiting days, only those who had visitors were allowed out. On Mondays, Wednesdays and Fridays, each cellblock had a half hour of recreation in the morning to play soccer.

For "discipline," guards took inmates, in handcuffs, to a dark room that they called the "torture chamber." It was "beneath the wall-less shed. There, the guards suspended the inmates upside down and beat them [...] and forced them to stand on their hands." They left them like that until the guard shift changed. He had been in that torture chamber.

There was not much violence among the inmates, just quarrels and fighting for sport. He heard that there had been rapes before he came to the Center. The authorities used the method of "discipline" described earlier to prevent such rapes.

There were some ten guards who treated the inmates "like trash" and told them "they were no longer part of society or humanity." Inmates at the Center were not taught a vocation. While they did make Articles out of straw to sell, materials had to be supplied by visitors. A normal day at the Center was to eat breakfast at 6:00 a.m., lunch at noon and dinner at 5:00 p.m. Their recreational time consisted of just one half hour. The rest of the time they were in the cellblock.

Telephone calls were not allowed at the Center; only visits. There was a library and a school, so that those who wanted to study could get out of the cellblock for fifteen minutes in the morning or fifteen minutes in the afternoon. One had to be accompanied by a guard when going to and returning from school. In short, the Center did not help them in any way.

There was a physician at the Center to treat the inmates. However, he did not have sufficient medications; all he had on hand were throat remedies. On one occasion a psychologist was called in. Teachers worked with different cellblocks on different days.

The witness was in the fire back in 2000. He sustained burns on the arms and on the back. He was asleep when the fire broke out in the cellblock, and the "plaster" on the ceiling caught fire. The heat was tremendous and the smoke blinded him; he had difficulty breathing. The inmates were screaming, because everything was on fire. The ceiling "plaster" fell. One inmate, Elvio Núñez, died right there, because he fainted and the ceiling collapsed on him. The guards just watched and fired their weapon so that no one would escape; that mattered more to them than saving the inmates. The inmates themselves began fighting the fire. They had to use wet blankets because there were no extinguishers. By the time anyone helped them, the fire was almost under control. Only one guard opened the door. After the fire it was said that a television set had exploded and a mattress caught fire.

Because of the fire, the witness was transferred to the Burns Center. However, the hospital did not follow through with his treatment. Finally, his mother bought the remedies herself, which she did by selling some of her possessions. His mother incurred considerable expense because of the witness' wounds. His arm has still not healed. He doesn't like to think about the fire.
He was tried but never convicted. His public defender visited him every 15 days or so. The witness has been imprisoned three times. The first was for three months.

The second time he was released when alternative measures were ordered. His most recent incarceration was at the Tacumbú Prison. Because he had a criminal record, they planted marijuana on him to have him thrown in jail again. His case is moving very slowly.

The witness has been marked and persecuted because he has a criminal record. Before his most recent imprisonment, he was working as a shoemaker; he did nothing to be in prison.

He asked the Court for his freedom.

b) Testimony of Osmar López Verón, former inmate at the Center

The witness entered the Center for the fourth time in February 2000, and was placed in Cellblock 8. A record was kept of the inmates and the reason for their detention. He was 13 when he entered the Panchito López Center for the first time. At that time, the only inmates kept separately were the "*chacariteños*" (a neighborhood in Asunción). When he entered the Center, no physician ever gave him a check-up.

The cellblock to which he was assigned housed between 30 and 35 inmates. The inmate population of the Center as a whole was between 250 and 300. The children washed the cells out with water, as there was no soap. The bathrooms had latrines without doors. They had showers with water. They sometimes had toilet paper. Inmates were not supplied with clothing or shoes. "If you were cold, you stayed cold." When he came to the Center he saw sheets and blankets, but he was never given any. He slept with another inmate to stave off the cold. The food "was horrible"; it was almost always "beans with stew". The inmates themselves did the cooking. There were no spoons and only 20 dirty plates for all the inmates.

The inmates left their cellblock for around six hours a week, and every time they entered or left the cellblock, the guards "locked them down." In other words, cellblocks were locked shut with a key.

The witness went to school for three hours straight, from 7:00 a.m. to 11:00 a.m., or from 1:00 p.m. to 4:00 p.m. During the day he watched television and listened to the radio. But he didn't work.

The physician gave them an "all-terrain" pill; in other words, it was the same pill no matter what the complaint, whether it was a tooth ache or a headache. There was no dentist, no eye doctor, no psychiatrist.
There were rapes at the Center, but never in the cellblock where the repeat offenders were housed, which is where he was. When a rape occurred, the directors examined the person who had been raped. Furthermore, there were 15 guards on shifts. There was no fighting among the inmates themselves.

The disciplinary regime at the Center consisted of beatings and clubbings. The guards took the inmates to a cellar, where they hit them wherever they wanted and then returned them to the cellblock. He didn't see a lockup, just a cellar. Also, no restraints like handcuffs, chains and shackles were used. "They just took them away by force."

The witness was at the Center when the first fire occurred on February 11, 2000. He didn't have anything to do with that fire. An officer by the name of Cano, who came

from Tacumbú Prison, was to blame. That day all the inmates were still awake when an officer took away a group of five or six inmates from Cellblock 8 and told the others to go to bed. They answered that they were not tired. The inmates who were taken away were brutally beaten, for no reason. It was around two or three in the morning and the guards were drunk. When the inmates returned –all bruised and beaten- they were planning to go on a hunger strike, and then the fire broke out. The officers ran, but did nothing. One officer said: "Let them die [...] what do I care." Two inmates died: Cahvito and Yacaré. Then another seven died after being taken to the hospital –among them the witness' friend Mario Cabra. It was said that Mario Cabra had already been released –the news had come that very day around 6:00 p.m. Once the inmates were in the patio, the authorities delayed two or three hours before taking the injured inmates to the hospital.

He asked the Court for his freedom, as he said he did not want money. Upon his release, he wants to find another job and live with his mother.

c) Testimony of Raúl Guillermo Ramírez Bogado, journalist

The witness was working as a journalist for the newspaper *Última Hora*. In his testimony, he indicated that there were any number of versions of how the February 11, 2000 fire started. He also testified about the conditions under which the inmates at the Center lived. He wrote a number of newspaper Articles on the subject.

d) Testimony of Jorge Bogarín González, former judge

The witness was on the bench from December 1995 to April 2001. The prison situation in Paraguay was and is "deficient" and unique, inasmuch as the prisons are administered by the Executive Branch, specifically by the Ministry of Justice, with some supervision by the Supreme Court.

The witness visited the prisons, including the Center. As a result, he had contact with the inmates there. He spoke with them to get their stories and to find out whether they were receiving any professional care.

He found the inmates at the Center living in subhuman conditions, owing to overcrowding and the unhealthy conditions in which they lived. At the time of the fire, the Center had close to 200 inmates. It was known that many infectious-contagious diseases like tuberculosis, syphilis, and even AIDS were circulating at the Center. Also, there are no records or statistical data on the inmates, the crimes they allegedly committed and the length of their sentences. All this made it impossible to fulfill one of the purposes of punishment, which is to rehabilitate the inmates for society.

The most common crimes of the inmates at the Center were robbery, theft, as well as some homicides or aggravated assaults. There was a high rate of recidivism, with the trend being toward the commission of more serious crimes. In the case of some inmates, the time they spent in the Center amounted to the minimum for the crime with which they were charged; when that time was up, they were released without the judge ever knowing whether the they were guilty or innocent. Then, too, some inmates had served their sentence but remained incarcerated because they did not have legal counsel or their order for release never came.
Paraguay does not have laws regulating these kinds of breaches and violations, even though the reform of the penal code has introduced options like fines and alternative

penalties for the less serious offenses. Until there is sweeping, in-depth reform of the prison laws, inmates will continue to be incarcerated in subhuman conditions, without knowing their sentences. The result will, as a rule, continue to be the same: i.e., they will be unable to re-adapt to society because they do not have the psychological help to survive what they have had to endure.

It is difficult to know how long, on average, the juveniles were incarcerated, because there are no figures or records in prisons in general, much less at the Juvenile Reeducation Institute in question.

e) Expert testimony of Carlos Arestivo, psychologist

Since 1996 the witness has been a member of the Tekojojá Foundation's Street School Group and of the AMAR project (*Asistencia a Menores de Alto Riesgo* – Assistance to High-Risk Juveniles). This brought him in constant contact with the so-called "street children" and, by extension, with the detention facilities.

The Center was built as a home for some 15 or 20 people, yet close to 150 juveniles were incarcerated there. The cells were five meters by five meters, each housing some 50 minors. The temperature in the summer was not less than 40 degrees Centigrade and the cells had only one ceiling fan. The inmates had at most two hours of recreation in the patio of the house, which was also overcrowded since it, too, was not very large. The Center's nauseous odor was unbearable. The kitchen was located across from the public lavatories. The food was not fit for human consumption as it was prepared on the kitchen floor.

Anyone forced to endure this kind of incarceration would suffer psychological consequences. In the case of these children, from the moment they were arrested, they were tortured by the police; the lucky ones are "simply mistreated." The inmates' first psychological symptoms surfaced when they were in the hospital and were suffering acute anxiety and insomnia, triggered by the slightest hint of something that might be related to that experience. These juveniles were also diagnosed as suffering from post-traumatic stress disorder. At no time were these juveniles given any psychiatric or psychological care; on the contrary, the mistreatment continued and some were transferred to two adult prisons: the Tacumbú Penitentiary and the Emboscada Prison. The latter is a maximum security prison where the most dangerous criminals are generally housed. Some of the inmates asked to be in a security cell to avoid being sexually assaulted or abused.

The most significant after-effects of the fire and the previous and subsequent violations of their rights are the following: their self-esteem is reduced to almost nothing; they become aggressive as a defense mechanism; they worry over the uncertainty of their lot as individuals, about their present and their future; they experience frequent depression; they have difficulty sleeping; they have nightmares; they are afraid; they are fearful that once released, they will have no one and will not have the chance to make an honest living. These are the reasons why they will almost invariably turn to crime again and end up in prison again. These young people are affected both psychologically and socially. Despite everything, they have hopes of changing and believe they can be useful members of society and help others.

In 2001, an unbearable heat made the habitual overcrowding all the more difficult to tolerate. When they could no longer bear that dreadful situation, the inmates

protested by setting fire to some mattresses. The fire spread quickly. The cellblock doors were locked and the guards were unable to find the key. The smoke and the high temperature began to suffocate the inmates. Despite their screams of pain and desperation, the inmates did not get immediate help, since the guards had not even called the firefighters. Some inmates fainted and collapsed. The inmates continued to scream, begging for help, while some bodies burned. One of the young people said that the smell of burned flesh mixed with the smoke and heat was unbearable. Some inmates managed to get out through a small opening they made in the roof. Once they had escaped the flames, they were taken to the hospital in ambulances.

For the young people who were incarcerated at the Center to be able to easily re-adapt to life in society, they would have to live, from the outset, in a safe place, where they are treated humanely and with affection; they also need to spend a reasonable period of time in psychological and affective recuperation – in other words, healing the affective and emotional wounds they suffered – and they have to feel useful to restore their self-esteem. In short, they need an environment where they can re-adapt in every positive sense. This environment might be an institution that concerns itself with problems of this type, where the young people can study to have a solid base and learn some activity they can perform that reinforces a sense of dignity and gets them back into mainstream society.

The young people must also have psychotherapy, to enable them to reflect upon their lives and then build a new and different life project. Finally, to provide for these pressing needs and enable these young people to rejoin society, the State must ensure them a pension as reparations, as they have hopes of being able to get international assistance.

70. On March 31, 2004, in response to the President's March 2, 2004 order (*supra* para. 42),[34] the representatives sent the affidavits given by witnesses Dirma Monserrat Peña, Clemente Luis Escobar González, Arsenio Joel Barrios Báez, Hugo Antonio Vera Quintana, Jorge Daniel Toledo and María Teresa de Jesús Pérez, all sworn in the presence of a person authorized by law to authenticate documents and statements (*supra* para. 44). The following is a summary of the pertinent parts of those affidavits:

a) Testimony of Dirma Monserrat Peña, elder sister of Pedro Iván Peña, a former inmate at the Center

The witness' brother was taken away on December 31, 1999, but his family was never advised. In order to get word to them, Pedro Iván Peña lied to the police and told them that he had a stolen object stashed in his house. That way, the police came to his house looking for the supposedly stolen object. That was how his family learned that he was at Police Station 12. The witness went to the police station, but they denied that his brother was there. She had to turn to a community radio station to ask for help. A journalist called her and confirmed that her brother was at that police station. Her brother told him that they had tortured him badly and, in fact, he had "sign[s] of torture" and "scratches everywhere". The witness wanted her brother to be examined by a physician at the police station, but the police didn't want to have it done.

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[34] *Cf.* file of written statements supplied by the State, the Inter-American Commission and the alleged victims' representatives, volume I, folios 221-263.

The witness' brother told her that he had been tortured at the Center several times, and that there was a cellar where they took the inmates, who were bound and had their hands tied; sometimes they suspended them upside down. An inmate could spend one to three days in that cellar. They treated the inmates "like animals". Food was in short supply, and what little there was was "disgusting". Nevertheless, the inmates fought for a plate of food. If they didn't have a plate, then they often had to go hungry.

The fire was hell for the family. They were afraid her brother would die, as he was in critical condition after the fire and they were told he would not live. The director of the Center began saying "let them all die, they're not worth the trouble [...] let them all die, they'll never be good for anything, they have no future." Pedro Iván Peña spent two or three weeks in the hospital and was then transferred to the infirmary at Tacumbú prison, where he spent almost three or four months and was then released. Since then the police have harassed him time and time again.

The witness' brother suffered a number of mental and psychological after-effects of the fire. There are times when he remembers every detail of the fire; other times he has no memory of the fire at all. There are times when he forgets his own name, his date of birth. Summing up, there are "times when he is quite well, and others when he is in very poor condition."

Since the fire, her brother has had a cough and his hand is completely nonfunctional. Her brother's body is covered with scars: on the arms, the legs and the nose. He needs surgery for the hands and nose, but the authorities refuse all their requests.

Pedro Iván Peña learned nothing at the Center. In fact, he forgot all the good things that he had learned in his family, the good manners and study. He was a good person, a calm person, but "all that ended when he entered the Center." After the fire, he was half crazy, traumatized by the abuse. He is no longer the person he was before; now he's a mental wreck."

Children with criminal records are harassed constantly and can't get jobs. If they work on the street, the police, who already know them by sight, pick them up; if the children don't pay them, the police take them to the local precinct and find something new to pin on them. The children are taken away to reformatories, a misnomer since all they learn in such places are bad habits, as "they deform and cripple them mentally and spiritually";

What has happened to the witness' brother has had a profound emotional effect on the family, which is also harassed. The police come into the home without a court order, in pursuit of her brother.

She asked the Court for a better life and an education for all the inmates now at Itauguá. She also asked for protection for her brother, for herself and for her entire family, as they are still being harassed by police.

b) Testimony of Clemente Luis Escobar González, former inmate at the Center

The witness was an inmate at the Center and, at the time of his testimony, was in the Emboscada Maximum Security Prison. However, his release was scheduled for February 9, 2004; as of March 30 of that year, the court order had still not been executed.

The witness lived in a "rental" and although he had "never known the love of a mother or father," his attorney "treat[ed] him like a son."

The witness was 13 the first time he was placed in the Center, and had committed no crime. The second time an attorney told him that they were going to sentence him to 18 years; another told him three years.

The Center was a disaster. There was a cellar that was used as a "torture chamber." There, as punishment, they would hang the inmates from an iron bar for one hour, with their hands cuffed. At one point during his stay he broke his knee; it was two months before he was given medical attention. The guards didn't care about anything; but when human rights observers arrived, they treated the inmates differently. So they took Chief Ortíz hostage. After that, the inmates were afraid that their food would be poisoned. If they made a mistake in computer class, they were punished. The witness no longer wants to think about what went on at the Center. They were hitting him all day, because they claimed that he was a ring leader.

In the first two fires, the inmates burned mattresses to defend themselves from the mistreatment by guards at the Center, who beat them "till they couldn't beat them more." The only people who helped them escape from the cellblock were those from cellblock three. He was slightly burned, but went back into the fire to rescue a friend, and was more badly burned. He was five days in the hospital, whereupon he was taken to the Tacumbú Infirmary.

The last fire involved a riot when the guards killed a friend of his for no reason at all. The inmates became furious and started setting fire to everything. The guards threw teargas at them, beat them hard, and began firing on them with machineguns. The inmates had knives and were "about to kill two guards."

At Emboscada, one of the guards poured "hot stew" on the witness' neck. He thought about revenge, but opted instead to cut himself at various places on his skin; he thought he could endure anything to secure his release, because he had been in prison for seven months. When they accused him of rape, he asked them to call his attorney; he also wanted his body examined. But the prison guard told him that three or six months of punishment solved any problem there. He cannot sleep and lives in great fear, because there's a price on his head. Still, he has to grin and bear it because if not, they'll kill him with one shot and claim he was attempting to escape. Even the "stew" seems to have something in it to make the inmates sleep and sap their strength.

He petitioned the Court for his release, because it is his only hope of staying alive; he has already contemplated suicide. Finally, he wants to get out and never wants to return; he wants a job, a family. He would like to be a lawyer and one day help the other inmates.

c) Testimony of Arsenio Joel Barrios Báez, former inmate at the Center

The witness entered the Center for the first time in 1997. He was 14 at the time. The young man said that the Center was a "disaster." When he entered the Center, no physician examined him; the entire time he was there, he was never convicted. He was able to see an attorney and was eventually released. In 1998 he was placed there again; there had been a theft in his neighborhood and he was blamed because he had a criminal record. That time, he was there for one year and had an attorney. Then, when he turned 20, he was moved to the Tacumbú Penitentiary. They have already given him his freedom three times, but an official has told him that he has three other cases pending, and so they have not yet release him.

He was asleep when the February 11, 2000 fire broke out, and was badly burned. He spent a month in the hospital. On the day of the fire, some of the inmates were already dead by the time a guard opened the door. The firefighters came two hours after the fire broke out. One of his friends had been given his freedom on paper back in December 1999, but they had not yet released him. By now, he doesn't want to think about the Center anymore.

He asked the Court for his freedom and for justice for what happened at the Center. He also asked to be given a chance, as he has already spent time in a number of prisons.

d) Testimony of Hugo Antonio Vera Quintana, former inmate at the Center

The witness was 15 when he entered the Center for the first time. Later, as punishment, he was transferred to the Oviedo prison, where he was incarcerated with adult inmates. He doesn't remember what year the fire happened or how long he spent in the hospital. Prison is a "terrible world."

His cell at the Center was very small and was always locked. He had no sheets, no soap and no toothpaste. The food was neither "bad nor good." He had an attorney at the Center. He was an inmate at the Center, although he had never been convicted of any crime. There were teachers, but he had no desire to learn; he went to school but was never promoted to the next grade. The guards hit him and sent him to lock-up. The only thing he learned at the Center was "disorder and negative thinking."

He asked the Court for his freedom and a job, as it was difficult for him to get work now that he was a marked man.

e) Testimony of Jorge Daniel Toledo, former inmate at the Center

The witness was an inmate at the Center; he was never examined by either a physician or a dentist. It was not until sometime later that he was assisted by legal counsel. The Center was a "horror" and no place for children.

The guards treated him well. While it is true that they say that they took inmates to the cellar to beat them with their batons, he can't be certain because they never touched him. For two hours every day he was able to go into the patio. He also had visits and a mattress. The food was good. He smoked cigarettes and marijuana. The time he spent at the Center only made him worse than he had been before.

As for the fire, although they blamed a guard, it was an inmate who set the fire. Their plan was to use the fire to try to escape. The inmates jammed the lock with a razorblade.

He was asleep when the fire started. The inmates got out because the lock somehow opened on its own. There was no fire extinguisher. The guards were slow to go the victims' aid and did so only when the firefighters arrived. Some of his friends died trying to save others. The inmate who set the fire is free. The witness does not want to remember the fire.

He would like to study, as he only managed to learn to read. He was eventually released but was sent back with a three-year sentence. By now he has served three years and three months and has still not been released.

f) Testimony of María Teresa de Jesús Pérez, mother of Mario del Pilar Álvarez Pérez, former inmate at the Center

The witness' son, Mario del Pilar Álvarez Pérez, was being detained in the Center. Mrs. Pérez' family is poor and needed a considerable sum of money to get her son released from the Center. Finally, a lawyer told them that her son was to be released on Thursday, February 10, 2000; but he was never released and, in the early morning hours on Friday, was burned in the fire.

The witness learned of the fire by way of the television. She went to the hospital and found that her son was in very grave condition. He had burns over his entire body and there was no medication at that time. They told her to buy antibiotics and blood, but she had "not one guaraní". Her elder sister, however, gave her the money. She sold everything she had so that she could do everything possible for her son. Eight days later, the electric power at the hospital went out four times and her son began to tremble. She was with him when he died. At the time of his death, Mario del Álvarez Pérez was "18 [years old], today he would have been 25." She said that she had been deeply affected because she is a mother. She also said that she grieves for all the young children who were burned in the fire.

The Center was said to be a satanic place. During her visits to the Center her son told her confidentially that the inmates were hungry, cold, had little or no clothing and were tortured and beaten. The Center was about a mile and a half from her house and the visit was for a half hour. For a visitor to get in, she was required to take off her clothing so that it could be checked. The Center appeared to be clean, and her son was seen by a physician because he had chest problems.

She thought of her son every Sunday, because Sunday was the day she visited him. In order to be able to bring him something, she sold anything she could. At the time of her affidavit, her partner had died just 22 days earlier. She herself suffered from high blood pressure, asthma and insomnia, and "wants to join her son." Her son helped her with his siblings; "he was like the father." She added that she would never forget what happened to her son, as it is a pain indelibly impressed upon her heart and nothing can relieve it. She has a framed photograph of her son at home always, so as never to forget his face.

She asked the Court to provide "all possible assistance," as she is alone with nine children and does not want them to go hungry or in need. She wants something better for her children, so that they do not go the way of her son Mario. She also

wants to find a resting place for her son's body, as all the bodies are going to be removed from the cemetery. She does not have funds to pay for a vault. She therefore requested that a "vault [be made] for her son's body." Finally, she asked for justice and to know the reason for the fire at the Center and why her son didn't come out alive.

71. On April 6, 2004, the representatives sent the Court the testimony of Mrs. Silvia Portillo Martínez, in response to the President's order of March 2, 2004 (*supra* para. 42). That statement was not made in the presence of a person legally authorized to authenticate documents and statements (*infra* para. 86). The Court will now summarize the relevant parts of her statement.

Testimony of Silvia Portillo Martínez, mother of Raúl Esteban Portillo, former inmate at the Center

Women who visited inmates at the Center had to endure vaginal inspections. Prison personnel checked the young girls because they were bringing marijuana to their boyfriends. The routine is the same at Itauguá. The food they bring with them when visiting was checked and "taken apart."

The witness visited her son at the Center one day before the fire. The day of the fire, someone came to the witness' home and told her of a fire at Cellblock 8 of the Center. One of her daughters went to check into what had happened and, when she returned, told her mother that Raúl was the one "in the worst condition." When the witness went to the hospital, her son was beyond recognition; he was "a monster." A physician had to tell her that it was her son.

When her son sustained his burns she "was afraid she would go crazy." The family had lost all hope and practically lived at the hospital, so her house "was somewhat abandoned." When her son was in intermediate care, he caught an infection because of the burns, which "attracted flies." As he didn't have a ventilator, the witness turned to Radio Ñandutí to try to find one.

A number of the youths in the hospital were dying. She, like the rest of her family, was afraid. "She was in shock" and scared that her son's death might be inevitable. The hospital did not have the equipment needed for the treatment, since the burns unit was just being opened. One doctor asked for the Portillo family and told a family member that the family should "prepare itself because all those […] who [had been] hospitalized were going to die because the hospital did not have equipment." This family member begged the director of the hospital to get the equipment and went to the press to ask for the burn treatment equipment. That equipment was brought from the United States. Only two of the burned inmates survived, one of whom was her son Raúl. The other survivor, Raúl de la Cruz, died two months later.

The witness suffered greatly in the hospital until "one day I couldn't take any more" and cried incessantly. On one occasion, the witness was resigned to the fact that she "had watched her son die." She herself had to be hospitalized. One day they called her and asked to speak with her children. But she was alone at the time. So they told her to prepare herself, because the antibiotics were "not getting to the part of [her son's] body where the lung inflection [wa]s located" so she had to "prepare herself for [her son's] death." Then a specialist from another country examined her son, and prescribed an expensive antibiotic. He told them that if Raúl "lived" until nightfall, he would survive.

When her son was released from the hospital, he was "like a baby" at home; they had to feed him because he couldn't "manage on his own." Twice a week her son went to the burns center for treatment. Later he had surgery.

The witness asked the Court to order "restorative" or plastic surgery for her son, to restore her son's mobility and correct and relieve his burns. She also asked that her son be "rehabilitated of all the after-effects, including the respiratory" after-effects. She would alike like her son to be able to study, as he has been unable to go to school and she does not have the means to make that possible. The witness lives in a property that belongs to someone else; she would like a house of her own, where she has a better chance of finding work.

72. On April 18, 2004, the representatives informed the Court that witnesses Pedro Iván Peña and Raúl Esteban Portillo would not "be attending the […] hearing." On April 26, 2004, with the Court's permission (*supra* para. 48), the representatives sent a video and transcripts of the statements made by Pedro Iván Peña and Raúl Esteban Portillo. That video and the transcripts were not sworn in the presence of a person legally authorized to authenticate statements and documents.[35] The following is the Court's summary of the pertinent parts of those statements:

a) Testimony of Pedro Iván Peña, former inmate at the Center

The witness was 17 when he was placed in the Center. It was a hellish place and truly overwhelming. Most of the inmates were between 15 and 18. The place was small but housed 300 inmates, almost all of them behind bars and separated into cellblocks. The inmates of each cellblock were let out for 15 minutes of recreation. The guards routinely hit the inmates if they failed to return to their cells quickly after playing a game of soccer. The inmates didn't eat because the food was terrible. However, if visitors left them a little money, they could buy food at a little canteen. It was "pig's slop". He often got sick from the food.

The inmates endured brutal physical abuse. The prison staff treated the inmates like "animals." They used any pretext to hit the inmates on the hands, the feet, and the head; at times, they put them in an underground cell and chained them up. The trash littered in the underground cell attracted rats. He never saw a physician. The place was like a zoo when he tried to sleep. He and a friend had to take turns: one would sleep in the bed while the other slept on the floor. It was "a corral". He took the first course at the Center's school. He doesn't remember what month it was when he was finally released. All this left him traumatized.

He was in the fire on Friday, February 11, 2000 and was lucky not to have died. He suffered third-degree burns on his face, chest, back and nose. He doesn't know what happened in the fire, because he passed out and regained consciousness only in the hospital. His sister did not recognize him because he was bandaged and unable to speak. He spent two weeks in the hospital and was then moved to the Tacumbú infirmary. They then ordered his release and he left. He needed treatment, but got none. Little by little he regained his speech. His family is poor and does not have means. The fire and the Center left him mentally scarred. He has no future and is in bad shape.

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[35] *Cf*. file of written statements supplied by the State, the Inter-American Commission and the alleged victims' representatives, volume I, folios 264-289.

He was eventually sent back to the Center because he was a marked man. In other words, every time something happened, the police looked for him and grabbed him, for something about which he knew nothing. "They do that to all of us." That's why he is afraid.

When Julio Duarte went to see him in Itauguá, he told him in Guaraní that he was an attorney in the matter of the fire and that they were going to get a great deal of money; "if the case goes to trial, you will be going to Costa Rica." Pedro Iván Peña told him that without his attorney he wouldn't say anything. This episode frightened him, so that he told his sister.

He is in need of help; he will never get ahead because there is no work. He has much ahead of him and does not lose hope. He would like to be a doctor one day; he wants to help society, his neighbor who needs help. There are many innocents suffering in prison; some never have visitors. They get released and are thrown right back into prison again.

He asked the Court for an operation, and to help him because he wanted to become a doctor. He also needs work and wants to study, as he is still young. Furthermore, as he cannot move his hand, he would like to have it corrected. Finally, he asked for protection, because he is frightened and is not safe.

b) Testimony of Raúl Esteban Portillo, former inmate at the Center

The witness was 16 when he was placed in the Center. He was taken from the police station directly to the Center. His family was not notified. When he arrived, the guards used their nightsticks to beat him in the face, on the hands and on the feet. He was in the Center for 7 months the first time, and 8 days the second time.

The guards beat the inmates in an underground cell that had shackles on the wall. They put them there and beat them on the hands, feet and face. They brought them water, beat them for an hour and left them there for two hours. When he was beaten, he came down with a fever for nine days, but was never attended by a physician.

Some inmates fought over food because they were hungry. The cellblocks were approximately 6 meters by 3 meters and each housed between 20 and 25 inmates. There were around 500 people at the Center. The cellblock he was assigned to housed some inmates who had already been convicted; his own trial was still pending. They cleaned the floor. There was no ventilation, but there was light. The bathroom was filthy, and had only one shower, but no hot water or towels. They did not provide them with clothing or the necessities for personal hygiene. He walked around barefoot.

The food was not good and he got sick from it. The inmates themselves prepared the food, as the cook only prepared meals for the guards. When the press or human rights observers came, the cook prepared the food.

There was no grade for him in the school, as it only went as far as the second grade and he was in sixth grade. However, he went to classes for two hours every day to pass the time. There was a library, but it wasn't for the inmates. He didn't learn any trade; the only thing he learned was how to steal, how to smoke and how to take drugs. The guards sold the marijuana, alcohol and pills. They made them

practice the Catholic religion. Inmates were not allowed to use the telephone; they could only send letters. There was no physician, no dentist, no eye doctor and no psychiatrist. There was no infirmary, either. If the inmates "didn't recover, they died." If the guards discovered that inmates had knives, those inmates were sent to Emboscada.

At the time of the February 11, 2000 fire, a guard had struck an inmate and the others became furious. They said they were going to burn the mattresses to attract the media. His friends were hungry and were being mistreated. The inmates decided to light the fire because "some had been there for eight years, ten years and they wanted out. They were bored." He was asleep when the fire broke out. When he woke up he opened the window so that everyone could breathe. He was burned everywhere: on the arms, the chest and the back. The smell made him sick, and he spit up blood and ashes. They couldn't get out because there was something sharp inside the lock. They begged for help and the guards said "*pe manomba*" which in Guaraní means "You can all die." It was 15 minutes before the inmates were able to open the cellblock door.

At the hospital, about a half hour passed before anyone examined him. He was in the hospital for seven months; two months of that time he was in a coma. Upon his release from the hospital he was brought home and recovered there. Later, the authorities had him returned to the Center, as they did not want to give him his freedom. He suffered horribly. He spent a year and six months under house arrest. By the time they convicted him he was in Itauguá. The place is better, but the food is terrible and they hit the inmates there as well. He wants to go to school and doesn't want anything to happen to his family. Neither the Center nor Itauguá changed him for the better.

He asked the Court for help to move forward with his life and to go to school. He would like to be a doctor, but does not have funds to go to school. He also asked for help for his home, since the family was evicted. Finally, he asked for help to regain the use of his arm.

73. On March 31, 2004, the State sent the sworn statements given at the Office of the Chief Government Notary of the Republic of Paraguay by witnesses Fernando Vicente Canillas Vera, Teresa de Jesús Almirón Fernández, Michael Sean O'Loingsigh, Teófilo Báez Zacarías, Estanislao Balbuena Jara, Gloria Carolina Noemí Nicora de Martínez, Edgar Eduardo Giménez Gamarra, Carolina Isabel Laspina de Vera, Mirtha Isabel Herrera Fleitas, Inés Ramona Bogarín Peralta, Ana María de Jesús Llanes Ferreira, María Elizabeth Flores Negri, Maureen Antoinette Herman, Teresa Alcaraz de Mencia, María Vilma Talavera de Bogado, Carlos Alberto Torres Alújas, Christian Raphael Rojas Salinas, Ciriaco Rubén Valdéz Cáceres and Miguel Angel Insaurralde Coeffier, and the expert opinions of Messrs. Jorge Rolón Luna and Pedro Juan Mayor Martínez (*supra* para. 45), also given at the Office of the Chief Government Notary of the Republic of Paraguay, in response to the President's March 2, 2004 order (*supra* para. 42).[36] The Court will now summarize the relevant parts of those statements.

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[36] *Cf.* file of written statements supplied by the State, the Inter-American Commission and the alleged victims' representatives, volume I, folios 1-176.

a) Testimony of Fernando Vicente Canillas Vera, Deputy Minister from the Ministry of Justice and Labor

In February 2000 I went to the Center when they informed me of the fire and alerted the firefighters, the prosecutor on duty and the National Police. The inmates had set the fire and "jammed" the cellblock lock; as a result there was a delay of around 15 minutes before the door could be opened and the inmates evacuated. Two inmates died in the fire at the Institute. According to their friends' testimony, they were the ones who jammed the lock and burned the mattresses, which they put up against the only door in and out of the cellblock. The burned were taken immediately to the Medical Emergency Facility and to the Burns Institute.

Another, less serious fire occurred in February 2001, caused by the opposition that the inmates sensed on the part of the communities where the opening of an educational center for the inmates was being negotiated.

In July 2001, yet another fire occurred. The witness was at the Center when the fire broke out, because the prison guards were complaining that the inmates were not obeying their orders, creating a disorderly environment. This situation came to a climax when one of the youths supposedly attacked one of the guards and the latter shot him in the stomach. The inmate was taken immediately to the Medical Emergency Facility. It was at that point that the inmates started a fire of enormous proportions, which left the Center completely dysfunctional and unsafe for confinement purposes. It was for that reason that the inmates were transferred to various regional prisons.

The measures that the Ministry of Justice took in the wake of the fire were as follows: immediate medical attention for any inmate who suffered any type of burn; the outfitting of three pharmacies to dispense the needed medications; skin grafts in some cases; psychological care for the victims and their families; and assistance for burial of the deceased.

The transfer of the inmates after the third fire was endorsed by Judge Ana María Llanes; who issued a court order that transferred the minors to various prisons. Since the Itauguá Educational Center was already operating at peak capacity, it would have been counterproductive to send these inmates there.

The police and the prison guards were never ordered to take any repressive measures. As Deputy Minister, the witness never ordered nor gave his consent to the practice of torture or other forms of inhumane treatment at the Center. If there were complaints, administrative preliminaries were ordered to investigate the facts. The witness himself even filed a complaint against two guards for alleged acts of torture. He never received any written complaint from any nongovernmental organization claiming inhumane treatment or torture at the Center.

b) Testimony of Teófilo Báez Zacarías, guard at the Center

The witness is a prison official and was a prison guard at the Center when it operated out of Emboscada prison; later, when the Center moved to Asunción, he worked there until October 1999. Therefore, he did not witness any of the fires because he was assigned elsewhere.

c) Testimony of Teresa Alcaraz de Mencia, official with the Ministry of Education and Culture.

The witness served as a supervisor from 1998 to 2001, in the area where Youth and Adult Education Center No. 118 was located, which served the 'Panchito López' Juvenile Reeducation Institute. The Youth and Adult Education Center was in continuous operation from July 1993 to July 2001.

Center No. 118 started out with three teachers and eventually had seven. The program it offered was basic schooling, including the three cycles from the first to the sixth grades. It also offered vocational training to become a plumber, chef, hairdresser and electrician. The classes had special schedules, from 1:00 p.m. to 3:00 p.m. and from 3:00 p.m. to 6:00 p.m. There were 150 students enrolled; of those, 110 finished the sixth grade, thereby completing the basic education cycle. The inmates also had computer courses. Brother Michael Sean O'Loingsigh requested that more cycles be opened up given the excessive number of students.

d) Testimony of Teresa de Jesús Almirón Fernández, psychologist

The witness is a clinical psychologist for emergency cases, for crisis control and terminal patients. She is also an official with the Ministry of Justice and Labor and provided psychological care to the inmates injured in the fires at the Center. Whenever there are major fires at the prisons, the ministers in office have called upon her to coordinate the work of crisis management for the families of the injured inmates. The State paid any and all costs related to medical treatment, medications and funeral expenses.

She assisted some seventy people for an estimated 5 months per inmate. She also did follow-up on the inmates that needed plastic surgery or any other more specific treatment. Some inmates had inhaled large amounts of smoke and were therefore treated at the Max Boettner Hospital. She followed their progress by keeping in contact with them by telephone. Most of the inmates have gotten their lives back on track; some, however, have returned to committing crime.

The witness has provided advisory services at, among other places, the Itauguá Education Center and at Emboscada. She has provided help to all the inmates in hospital care and those recovering at home. The witness has used private laboratories to have specific work done that the health institutions did not have the means to do.

Nongovernmental organizations were constantly suggesting projects and studies based on foreign models that the institution could hardly have implemented as it did not have on hand the necessary infrastructure and human resources, especially given the idiosyncrasies of the environment in which she works.

e) Testimony of Gloria Carolina Noemí Nicora de Martínez, official with the Office of the Director General of Human Rights of the Ministry of Justice and Labor

The witness worked at the Center from March to July 2001, providing social assistance and advisory assistance on craftsmanship projects. Later she provided assistance to the youths who were transferred to the various prisons in the country. The inmates wanted to talk about drug abuse, prevention and treatment, since a

number of them were addicts. The inmates were grateful for and content with her work; however, two attempted assaults were made on her.

As for the families, her working group succeeded in making the visits to inmates a more fluid process. And during visiting hours they saw progress as regards the affective ties between inmates and their families.

The Center had an inmate population of 220, distributed among eight cellblocks. The schedule of the working group was 8:00 a.m. to 12:00 noon Mondays, Wednesdays and Fridays. They rotated, working with two or three cellblocks per day.

They received UNICEF support for the purchase of clothing, mattresses, blankets and Articles of personal hygiene for the inmates.

f) Testimony of Michael Sean O'Loingsigh, Coordinator of the Pastoral and Educational Team

In the time he worked at the Center, the witness was in charge of coordinating the ministry and education team. He began working at the Center in late 1993 with a ministry in which he did interviews with inmates, their families and their attorneys.

In 1994 he started the literacy school, Center No. 118, which had one teacher from the Ministry of Justice and Labor. He ended that project in 1999, by which time the school offered a complete elementary education, from first through sixth grade. There were two libraries for the inmates. Instruction was provided on the judicial process, and every inmate was given the name of his attorney, the prosecutor and the judge. There were trades and workshops were conducted. Courses were given on drug addiction and AIDS. In 1998 he was part of a multi-professional team at the Ministry of Education and Culture that worked on developing a support plan.

The Mini-Business Project got underway in 1998, with the idea of providing jobs to the inmates. They were taught new techniques of saving their profits, and learned teamwork. The goal was to prepare them for re-entry into society, build their self-esteem and serve as an incentive to create a job for themselves.

By late 1998, 60% of the 338 inmates at the Center were in the school, 12% were developing skills, and 28% were involved in other activities like cooking and cleaning.

In addition to coordinating the inmates' schooling, starting in 1995 the witness also began coordinating training workshops for volunteers and staff of the Center. Starting in 1998, some inmates began to participate in those workshops. The witness knows many former inmates who have managed to become part of mainstream society once again and are currently engaged in various types of activities.

The Center took a major step forward when each inmate had an opportunity to move further in his studies and to be trained. Also, more training was provided for the Center's staff and volunteers, so that they would have a better understanding of the complexities of the inmate rehabilitation process.

Therefore, from 1993 to 2000, there was a notable change on the educational front, in the inmates' behavior and in the treatment they received. However, the main problem persisted, which was society's absolute rejection.

The witness is still working with juvenile offenders at Itauguá. He also helps families of inmates and former inmates at the office of pastoral services for juvenile offenders at Asunción's Metropolitan Seminary.

g) Testimony of Inés Ramona Bogarín Peralta, from the Ministry of Justice and Labor

Mrs. Inés Ramona Bogarín Peralta, a State employee, testified on the operation of the La Esperanza Educational Center.

h) Testimony of Mirtha Isabel Herreras Fleitas, psychologist and official of the Ministry of Justice and Labor

The Center served as a school to teach inmates how to completely abandon their "behavioral option" or adapt it to enable them to survive. However, it did not have sufficient specialized personnel and lacked the means needed to perform its functions.

The general personality characteristics of these young inmates were the following: family conflict, in every respect; contact with drugs from an early age (8 years old and thereafter), alienation from the family; family members with a history of conflict with the law, intrapunitive and extrapunitive aggressiveness, anxiety, depression, suicidal tendencies, psychosis and criminal experiences prior to detention.

The Center did not have a deliberate policy of violence in dealing with the young inmates. When violence erupted, the authorities listened and adopted a posture aimed at preventing those situations. On a number of occasions the witness saw the Director's Office admonish the staff about mistreatment and violence against inmates. However, the center did have an organizational weakness.

The witness discussed the advances that the Itauguá Comprehensive Education Center represents.

i) Testimony of Edgar Eduardo Giménez Gamarra, former director of the National Service for the Treatment of Juvenile Offenders (*Servicio de Atención a los Adolescentes Infractores* - SENAAI)

The witness spoke about the important progress that the CEI Itauguá represents.

The transfer of the inmates from the 'Panchito López' Center to educational facilities was a step in the right direction. While the transfer was basically for reasons of infrastructure and space, it also made it possible to apply the new socio-educational system or model for juvenile inmates.

The SENAAI is a radical change for the better. However, to enable it to function better, the Paraguayan Government needs to establish prison policies for the treatment of juvenile offenders and make them the policy of the State, since this would ensure that they are carried out even if the administration or circumstances

change. This in turn would ensure a planned undertaking to achieve the desired success.

j) Testimony of Estanislao Balbuena Jara, prison guard at the Center

The witness has worked as a prison guard for the Ministry of Justice and Labor since 1991. He continues to work with juvenile offenders and has never mistreated an inmate. A complaint was once lodged against him alleging torture and mistreatment on his part, but in the trial it was proved that "the charge was false."

He worked in the administrative offices, at the entrance to the establishment. He was not a guard inside the Center and did not have contact with the inmates. He worked a 24-hour shift, then had 48 hours off.

At the time of the February 2000 fire, he was on vacation, but he witnessed the 2001 fire. The inmates rioted because they wanted to be transferred to the Itaguá Education Center and thought their transfer would be hastened by rioting. The inmates set fire to the ceiling with mattress stuffing. No one was injured or burned, but they did destroy such things as the gates to their cellblock, the computer rooms, the school and the medications in the dispensary. When the firefighters arrived the situation was already under control.

k) Testimony of Ana María de Jesús Llanes Ferreira, magistrate

The witness is a judge with the Court for Enforcement of Judgments, which began operating in February 2001. The functions of this particular court are set forth in the penal code and the code of criminal procedure, and in the Constitution, which provides that the purpose of sentences is rehabilitation of the convicted person and protection of society.

As a judge for enforcement of criminal judgments, she was present when the July 25, 2001 riot at the Center happened; she assisted the inmates and ordered transfers to facilities where they could receive medical attention and to other centers of confinement. Transfers were also ordered to prison facilities in the interior and even to Emboscada prison, while other centers better suited to house the juvenile inmates being transferred were reorganized. Her decision to order juvenile inmates transferred to adult prisons was because at the time there was no other center of confinement that had the infrastructure needed to accommodate the minors. However the situation of those inmates has been monitored. The witness made her visits in the company of forensic physicians, psychologists and social workers. The transfer was the proper measure and the State had an obligation to do it.

Before the riot occurred, inmates were being transferred to the Itauguá Education Center. They were selected on the basis of behavior. The program carried out was based on a list of 40 inmates who could be transferred. It was suggested that the inmates be classified into those who had been convicted and those who were standing trial or whose trials were pending; another factor considered would be the type of crime. Under the plan, inmates suffering from some illness or requiring a certain type of treatment were to be sent to the proper place. Also, more and better trained prison guards were needed, as were mental health professionals, psychologists and social workers, since the staff at "the penal facility" is inadequate.

The witness put together a schedule of visits to various centers where the minors were sent to make a record of the conditions under which they were living. She filed reports with the Supreme Court containing suggestions and recommending certain needed adjustments that could be made to the Ministry of Justice and Labor.

While serving on the bench of the court for enforcement of criminal judgments, the judge has received and continues to receive complaints of mistreatment alleged to have occurred at the Center and then later at the Itauguá Education Center. In such cases, the court has summoned those in charge of the centers, as well as the prison guards named in the complaints. The records of the proceedings are then sent to the Public Ministry for investigation of the case and subsequent punishment of the guilty parties. In fact, she has issued summonses for the Minister of Justice and Labor and the Deputy Minister to appear in court, in response to complaints that the court received about abuse, meager rations, a need for mattresses, medical care and the necessity of relocating some inmates to treatment centers.

The procedure established under the new criminal justice system is an improvement, as the judge presiding over the preliminaries in a case will no longer be the judge who tries the case. Previously, the proceedings were not public, as they are under the new law. The penal system for juvenile offenders still has problems with certain procedural matters and with application of certain legalities such as, for example, "probation officer, probation, and application of the rule of evidence on opportunity." The witness has not seen the socio-educational measure provided for in the code, implemented in practice. The assistance that public defenders provide leaves something to be desired.

As for her experience with application of the new criminal justice system and the new code of criminal procedure, the witness believes that it is not producing the desired result, particularly with regard to the objective of the punishment, which is rehabilitation of the person convicted. Currently, with recidivism on the rise, work is being done on projects that seek to fill gaps or correct shortcomings. However, the juveniles who have benefited have been rehabilitated and rejoined society. She has also had good success with juveniles who are granted temporary releases to go to jobs.

I) Testimony of Maureen Antoinette Herman, PROJOVEN official

PROJOVEN, a nongovernmental organization, has been operating in Paraguay since 2000. The witness has been working with high-risk adolescents in conflict with the law since September 1996.

PROJOVEN organized training projects for juvenile offenders at the Center and in the cellblock for juveniles at Emboscada (when the minors were transferred there in the wake of the fires at the Panchito López Center) and at the Itauguá Education Center. She also made occasional visits and followed a number of cases of juveniles who claimed they were unable to communicate with their defense counsel and/or families

In 2001, PROJOVEN conducted a series of workshops at the Center. During that period, they could almost always rely upon the authorities' support to gain access to the Center and work with the inmates. However, one problem she had when working at the Center was that it did not have sufficient staff to be present in the patio while they conducted the workshops. Also, of the forty inmates they worked with, most were under the effects of marijuana. "Living conditions at the [Center]

were clearly subhuman; the infrastructure was completely inadequate [and] unhealthy for the inmate population; this posed an immediate threat to the inmates."

The Center was managed in very disorganized fashion. It had no system for filing the records on the adolescents. The procedures followed in situations in which their lives were in peril were not what they should have been. The staff did not have the training needed to ensure the inmates' safety and prevent violation of juvenile offenders' rights. "Without exaggerating [...] I would have to describe what went on as a civil war; there was constant internal conflict among the inmates themselves and between the inmates and the authorities, specifically the guards." Her group came to the Center knowing that their lives were in danger and accepting that risk.

Had it not been for the fire, the Center would still be operating today. The closing of the Center was necessary. However, because it was a forced closing, it did not trigger major changes in the living conditions of incarcerated juveniles in Paraguay. Itauguá is much better and is fit for the population, but the same problems persist in the Director's Office and living conditions are not very different from what they were at Panchito López.

The changes in the law are most welcome. However, there are no mechanisms by which to implement these new laws. Implementation will be a slow process because of resistance on the part of some judges who do not approve of the alternative measures.

m) Testimony of María Vilma Talavera de Bogado, official with the Ministry of Education and Culture

The Youth and Adult Education Center No. 118 was located in the 'Panchito López' Center. It was staffed with three teachers from the Ministry of Justice and Labor. The witness does not know how the education center operated inside 'Panchito López' because she only had access to the information on the school's operation after it was moved to the Itauguá Education Center.

n) Testimony of María Elizabeth Flores Negri, researcher

Based on the different investigations she has done on prison life at the Comprehensive Education Center, the situation has evolved from one of "complete indolence and disinterest on the part of the system for the administration of justice [...] to a system that is increasingly more attentive" to the inmates' procedural guarantees and living conditions.

She was first acquainted with the 'Panchito López' Center when it was in the city of Emboscada. Then it was an old building, damp, with hygienic problems. It was totally unsuited for housing adult inmates, much less juveniles.

When the Center moved to Asunción, it drew more attention because of the constant complaints made by inmates and other interested institutions. The latter found it much easier to observe the Center once it was in Asunción because it was more accessible and closer. The increase in visits by defense attorneys and relatives was immediate and striking. However, living conditions did not change much, since the inadequacy of its infrastructure was obvious; the facility was much smaller and had much less space than it did before.

She received complaints of mistreatment and torture of adolescents when the Center was in Emboscada and when it moved to Asunción. When she received informal complaints, she contacted the national authorities, especially the Office of the Attorney General of the State. However, the responses obtained in the various cases were "consistently unsatisfactory; no one has ever tried to find out who was to blame and no preventive measures have been taken for the future."

o) Testimony of Carlos Alberto Torres Alújas, Ciriaco Rubén Valdéz Cáceres and Christian Raphael Rojas Salinas, firefighters

These witnesses, members of Paraguay's Fire Brigade, explained what the firefighters did when the fires broke out at the Center.

p) Testimony of Miguel Ángel Insaurralde Coeffier, Director of the National Burns Center

The witness was director of the National Burns Center at the time of the 'Panchito López' Center's February 11, 2000 fire. The Burns Center received approximately 30 patients, all of whom suffered from significant respiratory problems and cutaneous burns covering anywhere from 15% to 30% of the body. In general, the process of getting the patients into their respective beds, with professional care and proper equipment, took less than three hours.

The National Burns Center had just opened the month the fire occurred. It had adequate infrastructure in place and a well trained staff. Inmates stayed at the Burns Center for anywhere from 15 days to four months. All those patients received comprehensive care. They had pharmacological support; some had reconstructive surgery.

A burn victim is regarded as a patient for many years, because of the cutaneous scarring and respiratory after-effects he or she might have. However, the treatment was never completed because the inmates did not come to the hospital for treatment as assiduously as they should have. The hospital had no way of knowing why these patients did not come back for follow-up treatment, given the "special circumstances" of those particular patients. The hospital had no way of knowing whether these patients had been released from incarceration or were still being held.

q) Testimony of Carolina Isabel Laspina de Vera, former Deputy Director of the Itauguá Education Center

The witness was deputy director of the Itauguá Education Center and Director of the La Salle Center. She had also worked at the 'Panchito López' Center at one time.

The witness knew inmates who had been at "Panchito López," and subsequently at Itauguá and La Salle; some have been released and are now working and studying. When the young people at the Center learned that they would be moved to Itauguá, they had a change of heart, as "it was a hope for them."

Because of considerations having to do with infrastructure and understaffing, and the need to prepare the young people at the Center and at Itauguá in advance, the transfers were done gradually and progressively. The witness never thought massive transfers would be advisable.

r) Expert opinion of Pedro Juan Mayor Martínez, judge

The 1992 Constitution set the stage to amend laws and to train those who run the criminal justice system to make them sensitive to national realities, based on respect for the dignity of the human person.

The previous criminal justice system was a mixed system where inquisitorial methods were prevalent: preliminary hearings were closed; the examining judge acted at his own discretion; the same judge handled both the inquiry and the trial; confession was the evidence that trumped all other evidence; imprisonment pending trial was the rule, which meant that prisons were crowded with people who had never been convicted of a crime; and all this was set against the backdrop of protracted, written proceedings.

Under the new laws, the age at which one could be charged with a crime was raised to 14. While at the time special laws were still not in place, being a minor was regarded as a factor that would reduce the penalty. The domestic laws now in effect comport with the Convention on the Rights of the Child and the mainstream trends in juvenile justice.

In 1998, the Code of Criminal Procedure was enacted. It took partial effect in 1999 and full effect in 2000, following a transition period during which the cases initiated under the previous system were finished once and for all. The new code not only upholds the constitutional principle whereby deprivation of freedom pending trial will only be used as a last resort, but also defines the purely procedural aspect of preventive imprisonment. The new code has given the criminal justice system a set of alternatives to enable courts to avoid “locking up” the adolescent. The emphasis now is on sentences and mechanisms that are much more effective instructive tools. The new system enables inmates to know who is sitting in judgment of them and engages the family in the decision-making process.

The new code has established a special proceeding for juveniles where special consideration is given to the fact that the defendant is a juvenile. The proceedings used for juveniles are more benevolent. For example, in the case of a juvenile, a judge must decide whether to order detention pending trial within 24 hours of the juvenile’s apprehension.

The Child and Adolescent Code establishes the system of penalties and proceedings in the juvenile justice system. It outlines the modern concept of comprehensive protection, forsaking the old doctrine of “irregular situation.” The code provides for the application of the adult procedural system where there are gaps in the law or where something different is in order in the specific case in question. This gives juveniles “an added protection” and entitles them to the same procedural rights as adults enjoy.

A sentence of imprisonment will be for a minimum of six months and a maximum of four years. When the offense in question is a crime under common criminal law, the maximum sentence will be eight years.

s) Expert opinion of Jorge Rolón Luna, attorney

The Child Code regulates a number of important questions, such as protection of identity and the child’s right to express his opinion and to have his opinion taken into

account in matters that affect his interests. The code also regulates issues relating to child abuse and neglect, adoption, health, periodic review of the prison conditions, education, and others. The Code clearly establishes the obligations of the State and of private persons with regard to children, and a specialized juvenile court system with specialized juvenile proceedings.

The challenge posed by implementation of the existing laws is much more than a question of earmarking funds to State agencies that work with juveniles in conflict with the law. "The poverty in which large sectors of Paraguayan society now live demands that urgent social policy measures be taken, which are always more effective than criminal justice policy measures. Any course of action that does not feature strategies to relieve and eliminate poverty altogether will be doomed to fail." In any event, the State urgently needs to earmark funds to improve juvenile Reeducation Institutes, which still require major improvements and sufficient qualified staff.

74. During the public hearing (*supra* para. 43), the State and the representatives introduced documents as evidence (*supra* para. 56).[37]

75. When they presented their final written submissions (*supra* para. 59), the representatives attached a number of documents as evidence.[38]

76. On August 27, 2004, the State presented part of the documentary evidence that had been requested for better adjudication of the case (*supra* para. 61).

77. On August 27, 2004, the representatives presented part of the documentary evidence that had been requested for better adjudication of the case (*supra* para. 61).

78. On August 30, 2004, the Commission presented part of the documentary evidence that had been requested for better adjudication of the case (*supra* para. 61).

B) TESTIMONY AND EXPERT EVIDENCE

79. On May 3 and 4, 2004, the Court held a public hearing where it heard the testimony of the witnesses and experts offered by the Inter-American Commission and the representatives (*supra* para. 43). The following is the Court's summary of the pertinent parts of the testimony given by the witnesses and experts.

a) Testimony of Dionicio Vega, father of Sergio Daniel Vega Figueredo, deceased former inmate of the Center

The witness' son's name was Sergio Daniel Vega Figueredo and he was incarcerated in the Center for one year and seven months, without ever having been convicted. He was 16 when he was placed there. Before then, his son "was a normal person" and did not use drugs.

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[37] *Cf*. file of evidence received subsequent to the public hearing held on May 3, 4 and 5, 2004, supplied by the State and the representatives, volume I, folios 1-105.

[38] *Cf*. file on the merits, volume VIII, folios 2283-2364.

Sergio Daniel was accused of "misdemeanor battery." One year later, "the girls" that were with him on the day the events with which he was charged occurred stated that he was not guilty. The family got an attorney, "an ineffectual person" who failed to secure the release of the witness' son because the prosecutor told them that "his paperwork [wa]s already filed."

The witness went to visit his son on Saturdays and Sundays, because he worked on the working days of the week. His son described for him the mistreatment and abuse he was getting. The first thing the father noticed about him was a striking weight loss. Apparently, however, he became accustomed to the regimen at the prison. His "son was tortured in the prison by members of the prison staff." Each cell at the Center housed some 30 inmates. In fact, close to 50 inmates were crammed into one, rather small area. Some had beds; others slept on mattresses on the floor. Still others slept directly on the floor, with no mattress. There was one bathroom in each cell. He didn't know whether the Center had physicians, but when an inmate had a pain, the only medication was a pill of some kind.

On February 11, 2000, his son died of asphyxiation at the Center. The witness learned through the media. Sergio Daniel was asleep when the fire broke out. When his wife and he went to the Center, they were told that the inmates were no longer there and had been transferred to a burns center located in a municipality near Asunción. They waited a long time at the Center, but their son was not brought out to them. One of the witness' elder sons told the parents that they were to return home and that Sergio Daniel would be delivered to them there.

Some said that the inmates set the fire, but it could have been "someone else." "There are many stories but […] we don't know what really happened." They were never given a penny; all they received was the coffin.

The witness' family still feels the pain of their misfortune. The witness has eleven children and not one of the others has ever been in the Center or even in any police station.

The witness is asking the Court for the justice he has been unable to get in his own country. He is asking for compensation to have a vault since his son is currently buried in a vault belonging to a distant relative. Other families have had to endure situations similar to his family.

b) Testimony of Rosalía Figueredo Britez, mother of Sergio Daniel Vega Figueredo, deceased former inmate at the Center

The witness was acquainted with the Center because her son, Sergio Daniel Vega Figueredo, was an inmate there. The police took her son away on June 25, 1999. When she went to the police station to look for her son, she was told: "Your son got into trouble for no reason, señora". The witness was unable to secure his release because she didn't have money; they were demanding 500,000 guaraní to release her son from the police station. She would have paid the money had she had it, but she didn't. Because she didn't have money, her son is dead. On July 2, 1999, her son was transferred to the Center, although he had never made a statement in the presence of a competent authority. Sergio Daniel was at the Center for one year and seven months. "Three days after he went into the 'Panchito López' Center, he turned 17." One year later, a girl made a statement to the effect that because Sergio had not been with them when the incident happened, they pin the blame on him. The

witness said that she had eleven children, none of whom had ever been in conflict with the law.

The witness went to visit her son on Tuesdays, Thursdays, Saturdays and Sundays. On visits, family members went to the Center and brought those things that they could. She brought her son food, juice, clothing, slippers, and everything he needed. The guards let the inmate out of his cell from 10:00 a.m. to 2:00 p.m.

She made countless efforts to secure her son's release. In fact, she spoke with an attorney who told her that he would have her son out in three months, "because he's in trouble for no reason." Then the case was handed over to another attorney, "a public defender" unable to do anything. Although the public defender worked hard on the witness' case, she had no success "because the prosecutor [had] closed [her] son's case." She struggled to reason with the prosecutor, since one girl had stated that her son had nothing to do with the crime with which he was charged. But the prosecutor told her: "Madam, if you want to know anything else, my door is open; but for now I will not be reading your son's case file, as his case is closed." The witness' son was never convicted.

Sergio Daniel was good, very quiet, and never complained. When he was at the Center, he told her that he was sure he would be released as he had done nothing wrong and had faith in God. He went to school at the Center – to the sixth grade- and took a little course to prepare for confirmation. Before he was sent to the Center, her son did not use drugs; once at the Center, however, he did use drugs. The guards said that the mothers brought their children drugs. The witness was not going to bring "[her] son something son that would poison him."

The fire was on Friday, February 11, 2000. The Thursday before she had told her son that she would be unable to visit him on Saturday. "But [,,,] on Saturday, [she] buried him." She learned of the fire from the television, which reported that "the first to die [was] Sergio Vera." Her last name was Vega. She and her husband hurried to the Center, where they were told that their son was at the Burns Institute. The director of the Center told them that their son had not died, that he was in Areguá and that a taxi would be there shortly to take them there. Her elder son, however, went to the hospital and later called them to break the news that Sergio Daniel had been the first to die. The attending physician wrote on the file "that he died of smoke inhalation." They then went home to wait for their son's body. The government never gave them any type of explanation or apology.

She wants to know what happened in the fire, since one boy who did not die told her that they were all asleep and when the fire broke out they begged for help. She doesn't know whether there were extinguishers to put out the fire. The water tap was outside in the patio, but that night there was no water. The boy told her that the fire had been set "intentionally." That "is an injustice, [as] we are all human beings." In Paraguay, prison guards are not trained. For that job, they ought "to be psychologist[s]."

Her family is grief-stricken. What hurts most is that her son was in the Center for misdemeanor battery, and they were unable to secure his release. Sergio Daniel told her he wouldn't wish prison on his worst enemy.

Her son never told her that they tortured him. However, he told her that at night they took Sergio Daniel to the cellar to torture those who did something wrong; they

tied their feet and hung them upside down, and threatened them in that way; they would leave them there like that all night. On the subject of discipline, one guard told her that "if there are 50 inmates in a cell and one does something wrong, I punish all 50."

She hopes for the justice she was unable to get in her country. Having lost her own son, the witness wants justice for "all the youth who are still alive today." The children who survived need "someone to listen to them, because many never have visitors; many have no one [who goes] to see them, no one to keep their cases moving. There are mothers who […] abandon their children." She wants "justice; the law observed."

c) Testimony of Teofista Domínguez Riveros, mother of Sergio David Poletti Domínguez, deceased former inmate at the Center

The witness is a nurse's aide and has six children. She was the mother of Sergio David Poletti Domínguez, who was about to turn 16. One day the police called in her son to be present for an "inquiry" at the police station. From there he was taken directly to the Center, where he remained from March 1999 to February 11, 2000, when the fire occurred. Her son was incarcerated without ever having been convicted of anything, and was innocent. He had a private attorney who defended him prior to his death and even after.

Sergio David was an "office boy" for the National Post Office in Asunción. He was a good boy. Every time he was paid, he brought his sister gifts, because she was the one who did his washing. After having been such a good boy, the correctional center turned him into "a brute."

On February 11, 2000 she turned on the television before going to work and the first thing she saw was the fire at the Center. She went directly there, and was told that her son was at the Burns Center.

When she arrived at the Burns Center, no mothers had been let in; but she managed to get in because she was dressed in her nursing whites and no one knew that she was Sergio David's mother. There were a number of boys in one room; around six young people were in another smaller room, and it was there that she found her son. He did not have oxygen, "he had nothing […], he was begging for something for the pain," as were all the others. The "boys were vomiting ashes" and were all asking for water. She thought all her son's teeth had been burned, so that she checked his mouth. It was black, so she cleaned it. No one asked her who she was because they assumed she was a volunteer. She asked one doctor how her son was doing, but no one told her anything. She began speaking with all the boys, or they spoke to her.

Sergio David was conscious until a few hours before he died. She was able to speak with him. One guard entered the room where the wounded were and one inmate said to him: "Get out! What do you want now? Maybe you want to kill us all here? You didn't get the job done there, so you've come to kill us here." She spoke to the boy in Guaraní and told him that the guard wasn't to blame, and asked him why he had treated him that way. Her son and six other boys in the room who were conscious told her that the fire was caused by a prison guard who spilled something and it caught fire. They also told her that they had begged for help, pleaded for them to open the gate; the guards just kept saying: "Shut up, stop yelling or we'll

shoot you!" Her son told her that the inmates didn't have water inside their cellblock as the water valve had been shut.

Sergio David died two days after the fire. When her son died, the witness retrieved his body and buried him. A brother-in-law who works at the Ministry of Justice and Labor bought the coffin; her family paid the other expenses.

From the time her son was incarcerated in the Center, she lost her entire family, since Sergio David needed attention. She no longer had friends or friendships, because she devoted all her time to Sergio. Everyone in the family suffered; they grieved at the time he was detained and are still grieving today. They have still not managed to recover everything they lost with Sergio, from the time of his detention to the time of his death; for that reason, she cannot hire a professional to treat her other children and does not have the means to send them to university.

The Center was not a very large place, yet it housed over 600 youngsters. The food was "inedible," which was why the witness brought her son food and money to pay a guard to treat him "a little better." The Center was not a correctional institution; it was a place that kept the inmates "like animals." The cell was approximately two meters and held over thirty youngsters. The inmates were inside all day and were only let out for breakfast, lunch and supper. Visitors to the Center were patted down and undressed to see if they were carrying anything with them. When she went to visit her son, they always told her that he had been punished, that he didn't get along with the guard or that he was on his way to the punishment room. Concerning the punishments, her son told her that there were "times that even the best behaved [was] punished; the guards h[ung] the stronger inmates upside down for hours, [with] the head down and the feet up in the air, hanging by the legs." When the inmates got out of there, their dizziness caused them to stumble and hurt themselves. That treatment, the witness said, was inhumane.

Sergio suffered pains in his head, back and around his waistline; she always brought him some medication. Her son once caught scabies. No physician ever treated him; she was his doctor. They warned her that she was not allowed to bring in much medication.

Because of his situation and because she realized that her son "was no longer a normal boy," the witness hired a private psychologist for him. The psychologist visited him at the Center three times a week for a four-month period, until his death.

She filed a civil suit against the State that is closed "until other people are able to get the case moving."

She did not ask the Court for anything for her deceased son; she asked the Court to do something for her surviving children, because they have been badly affected, as has she; nothing can relieve the pain that the loss of a child causes. She also asked the Court to help those who were abused and who were burned in the fire at the Center. She asked that the Paraguayan justice system be impartial, humane, and treat "everyone as equals."

d) Testimony of Felipa Benicia Valdez, mother of Diego Walter Valdez, deceased former inmate at the Center

The witness' son, Diego Walter Valdez, was a good and obedient boy. At age 11, a patrolman shot him in the legs and then took him away to treat him. However, he was in the police station for 15 days, and they demanded 150 thousand guaraní for his release. She sold her wardrobe to get the money. When her son was 13, the police took him to the police station and demanded money for his release. However, she did not have the amount they were demanding of her. So they sent her son to the Center, although he was not guilty of anything and was never convicted of any crime; after three months, they released him. When the witness' son was 16, he was accused of stealing a cellular phone. To get him released she had to sell her stove and refrigerator. But they sent her son to the Center all the same. He had been there for six months when the fire happened. Her son was never convicted, but he did have an attorney.

She went to the Center on visiting days: Tuesdays, Thursdays and Sundays. But on some days her son was in the punishment cell "to reduce the amount of time he would have to spend at the Center." There he was beaten, denied food, and was given only water." One day "he vomited" blood and they gave orders to have him brought out immediately; he told her that they hit him repeatedly in the waist area. That time they took Diego Walter to a doctor and gave him medicine. Her son was in a wheelchair. Her son was fine before being placed in the Center; once there, he became thin and pale. The food at the Center was "pig's food." It caused the witness great pain to see her son suffering when he had done nothing wrong. He did not want to tell her much for fear that she would have a breakdown, as she had a heart condition.

She learned of the fire four days after the fact. He daughter was the one to tell her. She no longer had a television as she had sold it to secure her son's release the second time the police took him into custody. When her daughter told her that all the inmates were in the hospital, she went there but when she tried to get in they shoved her and told her that she could not come in because she would infect her son. They let her enter one day later. The witness asked the doctor if she could bring medications to her son, because the hospital didn't have them. But he told her no. Her son told her that he was awake on the day of the fire and that someone threw something from outside "to set fire to the place." A few days after the fire, after going into intensive care, her son died. The witness was grief-stricken. She felt like shouting to everyone "Why do these things happen? We're all human beings." She could not stand the pain. She thought that as long as her son was in the Center, the State would make certain that nothing happened to him.

Later, someone who did not give his name telephoned the witness and told her that she would be paid and to stay calm; but she replied that her "son was priceless."

Diego Walter's death left her ill. She suffers so much and does not understand how human beings can be so heartless as to do these things. The witness has heart problems and is currently undergoing very difficult cardiac treatment. Her son Cristian, 14, panicked and is no longer completely normal mentally. Her son's death also took its toll on her other children, William Santiago and Gloria Raquel.

She asked the Court for justice and to at least ensure that the boys who were burned are treated.

e) Testimony of Juan Antonio de la Vega Elorza, Jesuit priest and attorney

The witness is currently chaplain at the Tacumbú National Penitentiary in Asunción. His concern is the spiritual life of the inmates, legal aid and their care.

The building that housed the Center was a small, unfinished residence originally intended for a police chief who headed a specialized arm of the police force. The authorities' explanation for the fact that the Center was in a building intended as a residence was to claim that it was just a temporary measure, until another, somewhat larger place could be found, one better suited to the inmates' rehabilitation. The Center was in no way equipped for the rehabilitation of inmates. The young inmates had no place to go to relieve tension. All they had was a patio, so that they had to take turns playing sports. There were times when they were in lockdown for days, and were not allowed out at all, not even to walk in the patio. This is a violation of the United Nations Standard Minimum Rules for the Treatment of Prisoners. The Center had neither physicians nor medications.

There was no standard for classifying inmates by age, or by convicted versus those awaiting or standing trial. Moreover, even though the law prescribes it, as a rule the inmates were never given medical, dental or psychological evaluations when they entered the facility. What few bathrooms there were at the Center were in terrible condition. The smell was extremely unpleasant because they did not have soap with which to bathe, the water was cold and they had no towels. Inmates did not have individual cells. The only "individual cell" –and even it wasn't an individual cell- was the punishment cell, which was "a prison inside a prison, a horrible, frightening place." He saw the punishment cell, which was in a basement. There, the inmates spent the entire day in darkness. In fact, one "Justice of the Court" ordered that the cell be shut down. However, the following day it was open again. There were rooms were 30 or 40 boys slept on bunk beds or on the floor. Because they were adolescents, at the peak of their sexuality, "the one who paid dearest was the youngest and the smallest", as he was considered "a slave who had to submit to the one who chose him." "It was heartbreaking to watch little children cry from the pain of having been raped three or four times the night before." These violated children need psychological and psychiatric treatment to survive the trauma. The guards withdraw from the cellblocks at night, and one can do "whatever one wants" with complete impunity in these unguarded cellblocks.

It is difficult for inmates to report any situation. There is a "rule of silence": no one sees or hears anything; otherwise, they know they will be punished. The witness has seen and has heard from the inmates that the prison guards torture and abuse the inmates. Still, the inmates don't want to name names.

The guards sold drugs to the youth in the Center. The image of the guards is very bad; these are people who couldn't find a job elsewhere. Most have not even completed their elementary education. They think that in order to win respect, they have to administered discipline by "the stick, nothing else."

The detention conditions at the Center were an indignity and utterly deplorable. "We are teaching them how to use their freedom, yet we put them in a place where freedom is not exercised at all; we are supposed to be educating them to be useful citizens tomorrow, yet we are allowing them to remain idle for three or four years, because they spend their days doing nothing." This was re-education for a life of

crime, as borne out by the fact that recidivism was very high. These detention conditions caused the inmates to turn away from society, as society treated them like “wild animals.”

Inside prison, inmates cannot be taught a trade. The conditions were not there to teach the inmates anything, and there was nothing to induce them to learn. There were no classrooms, desks, chairs, notebooks, pencils or pens. The number of teachers was not what it should have been. Normally there was no money for food, much less to buy a computer.

Corruption is rampant at the Center. Still, there are good and honest people there as well. The Center has a book in which it records the names of the defense attorneys who visit the inmates. As a rule, few attorneys engage in this kind of work. Some are tremendous, but many are negligent and inefficient. Another problem is that at the present time, an inquiry takes six months; in other words, one is in jail for at least six months, whether one is innocent or guilty.

After the fires, some juveniles were transferred to Tacumbú. They were not there long, however, as that was just a temporary arrangement. While they were there, however, these juveniles were not separated from the adult prisoners because space was lacking.

Some street children have never had a family. It is heartbreaking to read their file: “Name of father: unknown,” “name of father: unknown.” It’s dreadful.

One measure that the Court might take to enable the boys who were inmates at the Center to truly get back into mainstream Paraguayan society is simply to ensure that the laws are obeyed, since not one law is being observed at the present time. “Treatment and follow-up” are also essential. The Child and Adolescent Code needs to be modernized and amplified.

f) Testimony of María Zulia Giménez González, journalist and attorney

The witness wrote several Articles in the Asunción newspaper *Noticias*, where she worked as a journalist covering “court-related” matters. And so on February 11, 2000, she went to the Center when the fire happened. She arrived after the events, by which time the inmates had been sent to treatment centers. In the end, she confined herself to the accounts given by people, neighbors, and other inmates, who told her how the events had unfolded.

She was aware of conditions at the Center well before the fire, because she visited routinely, as it was part of her assigned area. On days when the judges went to visit the Center, the prison staff cleaned up the “correctional institution, a misnomer,” and painted it with lime. But when the judges left, “hell started all over again.” The inmates said that there was a place in the basement where they were tortured. She saw the basement and how they were treated; she also saw how the children were crowded in the cells.

The prison guards were trained to punish and torture, but not to treat the inmates like human beings. The witness never saw extinguishers and does not know whether the Center had any emergency plan.

g) Expert opinion of Mario Ramón Torres Portillo, psychologist

In 1992 and 1993 the witness worked sporadically at the Institute as a psychological assistant. He volunteered his services, with authorization from the Ministry of Justice. In 1994 he was invited to participate as an expert at the Center.

The atmosphere in the prison system is one of paranoia, including the director, and prison guards and the young people. Nongovernmental organizations, therefore, have limited access to the facility. Yet when the press publicized the situation at the Center, the Ministry of Justice had to provide the media with an opportunity to visit the Center.

Although the Center called itself a re-education institution, it did not fulfill that function; it [was] a school where life lost any meaning." Any attempt to educate and communicate was completely abandoned. This was the finding of research done by "Defence of Children International," the Office of the Attorney General and UNICEF in 1996, 1997 and 1998. The State authorities disregarded that investigation, which had found that the conceptual and symbolic levels of the adolescent inmates' intellectual growth and development had stopped.

Fighting among adolescents is very common. In the case of the Center, however, the situation was exacerbated by the absence of "adequate affective and environmental restraint." The result was rampant paranoia and mistrust. The juveniles in the Center were polarized into opposing gangs as a result of neglect and the "lack of affective, social and methodological restraint." The fighting among the inmates could be mortal combat, because they were living in a state of uncontrollable anxiety. There was nothing to restrain their feelings that would enable them to sort out those feelings, contain them or redirect them.

The Center should have had an interdisciplinary group of professionals to address the needs of the juvenile inmates, who were all neglected fringe elements virtually excluded from society.

A basement at the Center was used for internal discipline. The "rebellious inmates, those who were not accepted within the institution or who did not toe the line," were all taken there routinely. In that damp place, they would spend hours on their knees in a dark room with no ventilation. By the time they came out, "they were dim-witted, almost as if they had been drugged by that total abandonment." The atmosphere itself was "a suffocating torture."

The families of the inmates are stigmatized. Society's perception of these families is that they "have created a monster." This, in turn, causes the families to feel a sense of shame as they tend to think that they alone are to blame.

When the juveniles leave prison, they feel persecuted. Until very recently, these children's identification cards were marked to show that they were ex-convicts, which meant that they had no chance of being accepted at any academic or public institution. In the end, their only option was to continue to commit crime compulsively.

The children who were inmates in Cellblock No. 8 at the Center could not have had suicidal tendencies that would drive them to light the fire in an act of collective suicide, since children (and everyone) fear death. But assuming, for the sake of

argument, that collective suicide was a possibility, the pressure from the outside to do just that was very strong.

The transfer from the 'Panchito López' Center to the Itauguá Education Center represents no progress at all because the authorities have not learned what happens psychologically and socially, and do not understand the methods that should be used with these "mistreated and violated" children. Still, change is possible if the political will is there.

Juvenile facilities should have no more than forty inmates.

h) Expert opinion of Emilio Arturo García Méndez, former advisor to UNICEF and an expert on the rights of the child.

On the international level, the minimum standards can be divided into three different categories: prescriptive or normative; juridical (perhaps the most obvious and the most often cited, since it concerns the material conditions that the deprivation of liberty must meet), and the category that concerns the problem of interpreting the rules relating to deprivation of liberty.

At the domestic level, the evolution of doctrine and jurisprudence, as well as each State's constitution and specific laws on the subject of deprivation of liberty all have to be considered.

On the issue of juridical standards, clearly the Convention on the Rights of the Child has and still does influence domestic laws. The Convention recognizes deprivation of liberty and uses that precise language. Extraordinary progress has been made in moving away from the old concepts of the rights of the child, which were generally expressed in somewhat euphemistic terms.

The Convention on the Rights of the Child recognizes deprivation of liberty in the case of minors, but also requires States parties to establish a minimum age below which the consequences of a violation of criminal law will not be applied.

As for the problem of interpreting the juridical standards, unambiguous rules have to be established at the domestic level that embody those principles of the Convention on the Rights of the Child that require that detention be reserved only for exceptional cases, and then be for the shortest appropriate period of time and only as a "measure of last resort." States also need institutions to ensure that legal guarantees are effectively observed.

It is a basic and elementary obligation of the State to ensure to its minors the juridical-institutional and political-cultural conditions necessary so that, at the very least, the mandatory and free public education that is the general norm in every country of the world is available within juvenile detention institutions. Consequently, "institutions of everyday life" have to be an integral part of the deprivation of liberty, so that re-socialization -the goal of which is to re-integrate the minor into his family unit and the normal institutions of the State- can proceed with as little shock and as little trauma as possible.

Under the new system, relevance or authority of the law becomes a central criterion, at least from the normative standpoint. In today's world, the issue of material conditions is entirely relevant and cannot be divorced from the issue of legal

relevance or authority. Another fundamental point has to do with "institutional totality or lack thereof" which concerns the question of whether the institution, within its walls, offered everything the minor could need; now, however, the opposite is the goal, because the Convention states that deprivation of liberty should only be used in exceptional cases, and then only as a "last resort" and "for the shortest appropriate period of time."

The reference in the international standards to preventive detention in these cases and to reasonable time periods is one of the most problematic aspects both from the normative standpoint and from the standpoint of judicial interpretation. Clearly, the notion of preventive detention as an anticipated form of punishment or as an exaggerated albeit temporary method of teaching a lesson still persists.

Human rights are "evolving in the direction of specificity," leaving less room for discretion and requiring more exacting language in the law. Experience has demonstrated that judicial discretion invariably works to the disadvantage of the weakest and least protected sectors. Therefore, judicial discretion has to be drastically reduced through a legislative technique that spells out precisely what conditions must be present in order for a juvenile to be lawfully deprived of his liberty.

The measures that could be taken in a country to mitigate any harm done to a group of juveniles held under subhuman conditions would be on two different levels. On the one hand, in the case of harm actually caused to persons and to individuals, the response cannot, *prima facie,* be general in nature; instead, the responses must be tailored to the individuals, on a case-by-case basis. If it is established that a deprivation of liberty is not authorized by law, i.e., that the deprivation of liberty is unlawful, then a standard would have to be established for determining reparations. That standard must consider what had been and what might have been each individual's life plan had the State not unlawfully and improperly stepped in and disrupted it. The settlements must be forward looking as well, so that these cases do not recur.

Without belittling the importance of tangible, individual reparations and reparations in the normative area and in institutional policy, symbolic reparations are a necessary tool by which to effect real change for the future and serve a very central instructive purpose for the future of the interpretation of the Convention on the Rights of the Child. To begin with, States have to be required to apologize for having enforced, in the case of children, bad laws that were for many years blatantly unconstitutional. States must also pay the necessary pecuniary damages and make reparations in the form of legal and institutional changes. Symbolic reparations are an important dimension not just to work toward a just social policy but also to enhance a State's own legitimacy.

Reform in Paraguay has made headway on the normative or prescriptive front, to bring its laws into line with the Convention on the Rights of the Child. However, it would be a mistake to think that changes at the normative or prescriptive level brought about change in the realm of implementation; normative or prescriptive changes have not always been matched by the institutional reforms needed to put the prescriptive changes into practice.

Then, too, imputability is a political and criminal justice decision. There is some debate as to whether imputability in the case of someone under the age of 18 is a

violation of the Convention on the Rights of the Child. However, treating minors the same as adults is indeed a violation of the Convention on the Rights of the Child. In that sense, if imputability means that minors are treated the same as adults, then to charge a minor as an adult and punish him accordingly would be a violation of the spirit and the letter of the Convention on the Rights of the Child. In Latin America, the concept of imputability has been replaced by the concept of criminal responsibility, where the violations of criminal law that juveniles commit are described in the Penal Code. In that sense, there is no juvenile crime. Paraguay has made progress in this regard; the penal consequences are different in the case of juveniles.

Implementation of a law on juvenile criminal responsibility can result in measures of two kinds: those that involve deprivation of liberty and those that do not. The State has a non-transferable, exclusive monopoly on responsibility for those deprived of their liberty.

i) Expert testimony of Ana Clerico-Deutsch, psychologist

In clinical encounters with some of the survivors of the fires at the Center, the witness was able to observe and evaluate the young people for the psychological and emotional harm that they suffered and continue to suffer. The trauma that these children experienced was twofold: the first was the trauma of being interned in the Center where, because of conditions there, the children endured deprivation in such areas as hygiene and food, and in other things related to daily life. The children were virtually unanimous on one point: they were treated “like animals” at the Center. The emotional and psychological impact of living in conditions of that kind is severe: children feel humiliated and degraded by the way they are treated day after day. The second trauma involves the use of corporal punishment, which the children reported was excessive and arbitrary. The corporal punishment frequently amounted to torture; for the slightest reason, the children were taken to a special room where they were tortured. This is perhaps the most extreme form of mistreatment and abuse, and these children were exposed to it every day.

Solitary confinement as a form of punishment for a juvenile is unthinkable, devastating, and utterly unacceptable. As a form of punishment, solitary confinement does nothing to modify the behavior being punished. The child will be no better off because of this form of cruel punishment. He is left alone with his own thoughts, his own anger, his own sense of defenselessness, powerless to do anything, simply biding time until that moment when he can “go crazy.” If children punished in that fashion never go to that extreme, it is because at some time in their lives, their mothers or fathers were able to provide them with the basic personality structure that prevented the psychotic break.

Torture is “the most blatant negation of the essence of the human being […] it is the ultimate in human corruption.” Torture has long-term effects that, if not treated, can have adverse consequences on one’s mental health. Those consequences are much more severe in the case of children and adolescents, because their psyches are still very vulnerable and their personalities and defense mechanisms are still not mature enough to be able to withstand torture. Another serious consequence of torture for children is that it makes them distrustful of the adult world, and they end up holding themselves in very low regard. Some said that they sometimes had suicidal thoughts.

Impotence is a common reaction to living conditions like this, to the constant fear of violence and the sense of defenselessness. The only alternative that inmates had was to watch and wait, unable to respond. This undermines their psychological equilibrium and adversely affects other functions such as the able to process knowledge and use reason; it also affects the ability to concentrate and study.

The environment that the children who lived at the Center described was a breeding ground for emotional disorders. The children had to draw upon all their mental energy to prevent a mental breakdown. This environment "breeds psychopaths." It was a violent world that instructed these children in the ways of violence. No other environment was offered to them where they might have experienced something other than violence.

Experiences of this kind are not forgotten, as they linger in one's memory forever. This situation can be described as one of protracted and complex trauma. In other words, this was not a single episode; it was multiple traumatic events. They lived in terror. Their situation could best be likened to "concentration camps or societies at war, where violence and the danger of violence are ever-present, and the children live in fear that they might be attacked at any time."

It is logical to assume that this protracted and complex traumatic condition affected all the juveniles who spent any time at the Center. The traumatic consequences of this situation may or may not have been a factor contributing to the recidivism of some of these children, depending on what was available to them and what their environment outside prison was like.

Furthermore, "having no way to release these strong emotions," the children became more violent with one another. The guards at the Center did nothing these outbreaks of violence among the juveniles. On the contrary, they punished them severely by taking them to the "torture chamber." When children have no one to hear their problems, two scenarios ensue: episodes of violence increase among the inmates; a sense of solidarity is built up among them.

The children who were in the fire have been affected, as they came face-to-face with death. The most serious after-effect is their physical scarring, which lowers their self-esteem. They worry about having problems establishing relationships with members of the opposite sex, problems in their lives, or even whether they'll be able to marry. All the memories and all the traumatic events are indelibly impressed upon their memories and resurface repeatedly, in a variety of situations. One such situation is when they go to sleep. One of the children said the following: "I can't sleep because when I close my eyes I see the flames, I hear the screams of the children and I can't sleep; I have to open my eyes to drive away all these images."

Criminal behavior can be modified, which is what the goal of re-education centers must be. In theory, the child and adolescent have to be provided with all the means to enable them to re-learn their behaviors and become functioning members of society. Inasmuch as they are under the protection of the State, the latter is responsible for their mental health. Rehabilitation centers are supposed to provide a healthy environment. Rehabilitation implies, *inter alia,* re-education programs where the children are motivated to learn and to go to school, and where children have an open space. The State must make it possible for the child to develop a life plan suited to his inclinations and aspirations.

Large-scale interventions will be needed to get the juveniles who were inmates at the Center fully reincorporated into society. These children need psychological care to restore a modicum of self-esteem, in order to rebuild their personalities. They also need medical treatment for the after-effects of the fires at the Center. They also need the kind of care that will enable them to go to school or learn a trade, so that they can be fully reincorporated into society. In short, they require comprehensive care, provided by an interdisciplinary team composed of professionals of various kinds, able to deal with the problems that these children are now having.

The shift away from a system of control by force, exercised by guards, to a model that uses educators to reshape the personality, is a first step toward improving the system. Sentences that are alternatives to deprivation of liberty would be one way to avoid the trauma. When a juvenile is deprived of his liberty, "his conduct is not changed and he does not learn the difference between right and wrong."

j) Expert opinion of Luis Emilio Escobar Faella, former Attorney General of Paraguay

The witness is a lawyer and served in the judicial branch of government for 25 years. He was Paraguay's Attorney General for five years.

The new criminal justice system affords equal access to the accused and to the victim. Under the new system, the Public Ministry is in charge of criminal investigations, as established in the 1992 Constitution.

The new criminal justice system also establishes a criminal court judge and a separate sentencing court that is a collegiate body versed in the law. In this new criminal justice system, the fact that a crime is committed by a juvenile becomes a "mitigating circumstance." The new Code of Criminal Procedure established a special proceeding for juveniles, which was to remain in effect until such time as the child and adolescent code was adopted. We now have that code.

The new Child and Adolescent Code also introduced such concepts as legal counsel on approval, review of behavior-related measures and, most importantly, a drastic reduction in the period of time that a child could be sentenced to serve in prison. Under the new Child and Adolescent Code, the maximum period of confinement to which a child can be sentenced is eight years. Both the Penal Code and the Child and Adolescent Code make provision, in many cases, for fines in lieu of deprivation of liberty. The Penal Code introduces the concept of fines based on number of days, which takes into account the convicted person's ability to pay the fine. The Child and Adolescent Code established a method that has to do with the adolescent's actual capacity to pay the fines.

However, these reforms have not been implemented in practice. The old provisions and the current provisions make it possible for the system to be "completely undermined" in practice. This is particularly true in the case of juveniles, where every rule has been violated.

The new Penal Code embodies modern doctrines, emphasizing the human being as the bearer of all rights and the penal system as the *ultima ratio*. Under the new penal system, courts are much more inclined to order alternative measures, sometimes at the prosecutor's request, so that preventive imprisonment does not become –as it was under the old system- punishment before conviction.

When judicial proceedings were still pending or still in progress, petitions of *habeas corpus* were never granted. The assumption was that the factual issue of failure to comply with deadlines was a problem of the system's operation. However, in today's Paraguay, three years is considered a reasonable period for proceedings to be completed. If not completed within that time frame, the defendants have to be released.

It was and still is possible that a released juvenile might be returned immediately to prison or to the institution from which he was released, this time on a new charge. He may never have been actually free. So, in practice, there was a dual judicial system, one run by the police, who not only detained people but often released them in exchange for money or for political reasons.

When the witness was attorney general, he received many complaints during his visits to the Center. The juveniles complained that part of their "ill-gotten gains" would end up in the hands of the police and that when they got out, if they didn't follow the police's orders, they would be sent back to prison. Proceedings and preventive detention could be ordered on the basis of a simple police report; in other words, a judge would institute proceedings and order immediate preventive detention simply on the word of the police.

C) EVIDENCE ASSESSMENT

Evaluation of the Documentary Evidence

80. In this case, as in others,[39] the Court accepts the probatory value of those documents that were submitted by the parties at the appropriate procedural moment or as evidence to facilitate adjudication of the case and which was neither disputed nor challenged and the authenticity of which was not questioned.

81. Regarding to the newspaper clippings, this Court has held that even though they are not documentary evidence proper, they may be assessed when they reflect publicly-known or notorious facts, statements of State officials, or when they corroborate facts established in other documents or testimony taken in the proceeding.[40]

82. As for the testimony and expert opinions given at the Office of the Chief Notary Public of the Government of Paraguay, like those given in the presence of a person with legal authority to authenticate documents (*supra* paragraphs 44, 45 and 46), this Court evaluates them in the body of evidence and admits them to the extent that they fit the purpose of the proposed examination, have neither been disputed nor objected to, and are not contradicted by the other evidence submitted in this case.

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[39] *Cf. Case of the Gómez Paquiyauri Brothers, supra* note 26, para. 50; *Case of the 19 Tradesmen, supra* note 26, para. 73; and *Case of Herrera Ulloa*, *supra* note 29, para. 67.

[40] *Cf. Case of the Gómez Paquiyauri Brothers, supra* note 26, para. 51; *Case of Herrera Ulloa, supra* note 29, para. 71; *and Case of Myrna Mack Chang*. Judgment of November 25, 2003. Series C No. 101, para. 131 *in fine*.

83. This Court deems that the statements made by relatives of the alleged victims, who have a direct interest in this case, cannot be evaluated separately; instead, they must be evaluated within the context of the body of evidence in the case. Both for the merits and for reparations the testimony of the alleged victims' next of kin is useful to the extent that their testimony can provide additional information on the consequences of the violations that may have been committed.[41]

84. The testimony of Pedro Iván Peña and Raúl Esteban Portillo supplied by the representatives (*supra* paragraphs 48 and 72), consists of the questions posed by Ms. Viviana Krsticevic, Executive Director of CEJIL, and the witnesses' answers, which appear in a document dated March 25, 2004, and are not in the form of a statement sworn in the presence of a person with legal authority to authenticate documents (affidavit). No party either disputed or objected to these questions and answers, so that the Court will admit them as documentary evidence and will evaluate them in the body of evidence.

85. The State objected to the expert testimony given by Mr. Carlos Arestivo on the grounds that "Mr. Arestivo was a member of a nongovernmental organization called 'Tekojojá,' which was one of the original claimants in the case […], so that the expert testimony taken cannot be objective and impartial." The State therefore requested that the Court "not take that evidence into consideration when arriving at its judgment." Although the State objected to the expert testimony given by Mr. Carlos Arestivo (*supra* para. 51), this Court is admitting it insofar as it fits the intended purpose of the examination. It will take the State's objections into account and assess this testimony as part of the body of evidence following the rules governing reasoned judgment arrived at freely and on the basis of admissible evidence, within the relevant legal framework.[42]

86. The State also objected to the statement given by Mrs. Silvia Portillo Martínez on the grounds that it "was not given in the presence of a person with legal authority to authenticate documents, in violation of the provision contained in the Rules of Court […] in the pertinent part." The State asked the Court "not to consider this piece of evidence when arriving at its judgment." Although the State objected to Mrs. Silvia Portillo Martínez' statement (*supra* para. 51), this Court is admitting it to the extent that it fits the purpose of the examination. It will take the State's objections into account and assess the evidence in the context of the body of evidence as a whole, applying the rules governing reasoned judgment arrived at freely and on the basis of admissible evidence, within the relevant legal framework.[43]

87. As for the statements given at the Office of the Chief Notary of the Government of the Republic of Paraguay, presented by the State, the Commission asserted that the "responses are irrelevant given the terms in which the dispute in the instant case was framed." The Commission argued further that one of the questions in the statement of Fernando Vincente Canillas Vera was "contrary to the provisions of Article 42(3) of the Rules of Court, which states that "Leading questions shall not be permitted." The Commission also objected to the assertion made by

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[41] *Cf. Case of the Gómez Paquiyauri Brothers, supra* note 26, para. 63; *Case of the 19 Tradesmen*, *supra* note 26, para. 79; and *Case of Herrera Ulloa, supra* note 29, para. 72.

[42] *Cf. Case of the Gómez Paquiyauri Brothers, supra* note 26, para. 54; *Case of the 19 Tradesmen, supra* note 26, para. 65; and *Case of Molina Theissen, supra* note 26, para. 23.

[43] *Supra* note 42.

witness Fernando Vicente Canillas Vera to the effect that the two inmates who died in the cellblock were, "[a]ccording to their friends' testimony, [...] the ones who jammed the lock and burned the mattresses." The Commission's contention was that the witness' statement "is unsupported and refers to facts that the witness himself obviously was not present for; instead, his allegations supposedly come from unnamed third parties." The Court will take the Commission's comments into account and is admitting into evidence the expert opinion of Fernando Vicente Canillas Vera to the extent that it fits the purpose of the examination and will assess it in the body of evidence as a whole, applying the rules governing reasoned judgment arrived at freely and on the basis of admissible evidence.[44]

88. The Commission also asserted that one of the questions asked of Estanislao Balbuena Jara was "contrary to the provisions of Article 42(3) of the Rules of Court, which states that "Leading questions shall not be permitted." Here, the Court will admit the opinion of Estanislao Balbuena Jara to the extent that it fits the purpose of the examination. It will take the Commission's objections into account and assess the testimony in the body of evidence as a whole, applying the rules governing reasoned judgment arrived at freely and on the basis of admissible evidence.[45]

89. The Commission also objected to the statement of Mrs. Teresa de Jesús Almirón Fernández, as her answers "are premised on the assumption that all the Center's former inmates […] were criminals, which is not the case." The Court will admit the opinion of Teresa de Jesús Almirón Fernández into evidence to the extent that it fits the purpose of the examination. The Court will take the Commission's objections into account and assess the testimony in the body of evidence as a whole, applying the rules governing reasoned judgment arrived at freely and on the basis of admissible evidence.[46]

90. The Court believes that the compact disc and documents presented by the State on May 4, 2004, on the occasion of its oral arguments at the public hearing on preliminary objections and possible merits, reparations and costs (*supra* paragraphs 56 and 74) will be useful in resolving the instant case, as will the documentation presented by witness Teofista Domínguez during the testimony she gave at the public hearing held on May 3, 2004 *(supra* paragraphs 56 and 74), especially inasmuch as they were neither contested nor objected to, and their authenticity or veracity was never called into question. It will therefore add this compact disc and documents to the body of evidence, in application of Article 45(1) of the Rules of Court.[47]

91. Law No. 2169 of June 27, 2003, which concerns the age of majority in Paraguay, is considered a useful document for the adjudication of the instant case and will therefore be added to the body of evidence, pursuant to Article 45(1) of the Rules of Court.[48]

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[44] *Supra* note 42.

[45] *Supra* note 42.

[46] *Supra* note 42.

[47] *Cf. Case of the 19 Tradesmen, supra* note 26, para. 74; *Case of Herrera Ulloa, supra* note 29, para. 70; and *Case of Myrna Mack Chang*, *supra* note 40, para. 131.

[48] *Cf. Case of the 19 Tradesmen, supra* note 26, para. 74; *Case of Herrera Ulloa, supra* note 29, para. 70; and *Case of Myrna Mack Chang*, *supra* note 40, para. 131.

92. As regards the documents requested pursuant to Article 45 of the Rules of Court, and presented by the Commission, the representatives and the State (*supra* para. 61), the Court observes that the parties did not provide all the documentary evidence requested for better adjudication of the case with regard to the preliminary objections and eventual merits, reparations and costs.

93. On the subject of the documents and information that the Court requested of the parties and that they did not provide, the Court notes that the parties are required to provide the Court any evidence it requests, whether it be documents, testimony, expert testimony or opinions, or evidence of any other kind. The Commission, the representatives and the State have an obligation to provide all the evidentiary materials requested for better adjudication of the case, so that the Court has the maximum amount of information and materials to enable it to ascertain the facts and arrive at a reasoned judgment.

94. As for the documents requested pursuant to Article 45 of the Rules of Court and duly provided, the Court is adding them to the body of evidence in the instant case in application of the provisions of the second paragraph of that article.[49]

95. Because it does not have complete information as to the identity of all the possible victims in the instant case, the Court will concentrate exclusively on the alleged victims named in the application, in the Court's order of June 21, 2002, and in the list supplied by the Commission on November 19, 2002. The Commission's list supplied information about the persons who were inmates at the Center in the period from August 14, 1996 to July 25, 2001. The State did not challenge the Commission's list.

Assessment of the Testimony of Witnesses and Experts.

96. Concerning the testimony of the witnesses and the opinions given by the experts in the instant case at the public hearing held at the seat of the Court on May 3 and 4, 2004 (*supra* para. 54), the Court is admitting those statements and opinions to the extent that they fit the purpose of the proposed examination and were not contested or disputed.

97. As stated previously (*supra* para. 83), this Court deems that the statements made by the next of kin of the alleged victims, who have a direct interest in this case, cannot be evaluated separately; instead, they must be evaluated within the context of the body of evidence in the case. Both for the merits and for reparations the testimony of the alleged victims' next of kin is useful to the extent that their testimony can provide additional information on the consequences of any violations that may have been committed.

98. The Commission had advised the Court that "after the witness María Zulia Giménez testified on the 'fires and subsequent events at the Center […], the Commission […] learned that the witness Giménez is related by kinship to one of the representatives of the [alleged] victims." The State, for its part, "[wa]s pleased to learn that the […] Commission had investigated and confirmed the existence of a kinship relationship between Zulia [G]iménez and one of the alleged victims' representatives."

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[49] *Cf. Case of the Gómez Paquiyauri Brothers, supra* note 26, para. 60; *Case of the 19 Tradesmen, supra* note 26, para. 78; and *Case of Molina Theissen, supra* note 26, para. 31.

99. The Court is admitting the testimony of Mrs. María Zulia Giménez to the extent that it serves the purpose defined by the President in the decision in which he ordered that testimony taken[50] (*supra* para. 42). As it has in other cases, it will assess its content within the body of evidence as a whole, applying the rules governing reasoned judgment arrived at freely and on the basis of admissible evidence.[51]

100. The Court will, therefore, assess the evidentiary value of the documents, statements and expert opinions submitted in writing or presented in its presence. The evidence presented during the case has been combined into a single body of evidence, to be considered as a whole.[52]

VI
PRELIMINARY OBJECTIONS

101. The State filed three preliminary objections, which are as follows: legal defect in the filing of the application; a failure to previously claim violation of Article 26 of the American Convention, and *litis pendencia*.

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FIRST PRELIMINARY OBJECTION

Legal defect in the filing of the application

Pleadings of the State

102. In filing this preliminary objection, the State asserted that:

a) the Commission erred by filing the application without fulfilling the requirements set forth in Article 33 of the Rules of Court; the *litis* cannot be engaged unless the alleged victims are named and information confirming their identity is provided;

b) in the case of provisional measures, it is sufficient that the beneficiaries be "identifiable" since the merits of the case are not being litigated;

c) in its June 21, 2002 order, the Court pointed out that the alleged victims "were properly identified and named in the application that the Inter-American Commission filed with this Court";

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[50] *Cf. Case of the Gómez Paquiyauri Brothers, supra* note 26, para. 54; *Case of Myrna Mack Chang*, *supra* note 40, para. 130; and *Case of Las Palmeras*. *Reparations* (Art. 63(1) American Convention on Human Rights). Judgment of November 26, 2002. Series C No. 96, para. 30.

[51] *Cf. Case of the Gómez Paquiyauri Brothers, supra* note 26, para. 54; *Case of the 19 Tradesmen, supra* note 26, para. 65; and *Case of Molina Theissen, supra* note 26, para. 23.

[52] *Cf. Case of the Gómez Paquiyauri Brothers, supra* note 26, para. 66; *Case of the 19 Tradesmen, supra* note 26, para. 82; and *Case of Molina Theissen, supra* note 26, para. 36.

d) the identification of the alleged victims was materially possible, since the Commission could have obtained that information during the friendly settlement process or before the admissibility and merits of the case were considered, given "the very strong cooperation" provided by the State in this case. Neither the Commission nor the claimants requested that information from the State at the proper stage of the proceedings;

e) the Commission had access to reference material based on the Court's June 21, 2002 order, since the Court requested that the State cooperate by providing the requested list. The State sent the requested information to the Commission, "in keeping with its posture of cooperation and its respect for the principle of good faith that governs the international human rights system";

f) facts and evidence must be shown to support the alleged violation of rights. "Evidence is clearly lacking of the individual identities of persons alleged to be victims of concrete facts in the period from August 1996 to July 2001, specifying place, dates, circumstances, victims and alleged perpetrators." The Commission "has failed to show sufficient proof of how the State violated the rights of the more than three thousand supposed victims, specifically as regards the rights to humane treatment, personal liberty, judicial guarantees, and so on." The Commission and the representatives have alleged facts and provided evidence of the supposed violation of rights in the case of the alleged victims of the three fires, but they have failed to show proof that all the inmates at the Center were somehow alleged victims;

g) were the reparations *in genere* sought by the Commission granted, the precedent set in the inter-American system would be contrary to the principle that requires victims to be identified and would affect "the legal certainty, reasonableness, and equilibrium" of that system. During the friendly settlement proceeding with the Commission, neither the representatives nor the Commission suggested to the State that all children and adolescents confined in that time frame should be compensated; and

h) the proceedings in the instant case should concern only the alleged victims identified under operative paragraph 1 of the Court's June 21, 2002 order.

Pleadings of the Commission

103. The Inter-American Commission asked the Court to declare this first preliminary objection to be inadmissible on the grounds that:

a) the discussion of this case when it was before the Commission began on August 14, 1996, and was always about all the children who were inmates at the Center; the case was never confined to the adolescents killed or injured in the fires that occurred on February 11, 2000, February 5, 2001 and July 25, 2001;

b) the application was never intended to be an *actio popularis* with unnamed alleged victims. The entire case with the Commission was conducted on the premise that the alleged victims were identified and that the State had their exact names in its possession;

c) assuming, *arguendo,* that some names of alleged victims were not in the application, that issue was definitively decided by the Court in its June 21, 2002 order; it would be pointless to revisit this matter yet again;

d) on September 16, 2002, before the three-month time period the Court set in that order had expired, the Commission submitted a complete list, with the names of the children who were inmates at the Center between August 1996 and July 2001, which the Permanent Mission of Paraguay to the Organization of American States had submitted by notes dated August 27, 2002 and September 5, 2002. In those notes the State expressly stated that it was complying with operative paragraph 3 of the Court's June 21, 2002 order.

Pleadings of the representatives

104. With regard to the first preliminary objection the State filed, the representatives asked the Court to regard it as out of order on the grounds that:

a) when the proceedings on the case got underway and at the time of the early communications sent to the Commission, the fires had not yet occurred and no inmate had died. The State never raised any objection to the assertion that the alleged victims were all inmates at the Center;

b) there is no legal defect in the manner in which the application was filed. The Commission provided the names of some alleged victims in its application, and the data necessary to be able to identify the others, thereby satisfying the requirement established in Article 33(1) of the Rules of Court;

c) furthermore, subsequent to the State's prompt cooperation, the Commission delivered to the Court a new list in November 2002, in alphabetical order, making it possible to establish the number of alleged victims and their individual identities; and

d) Article 33(1) of the Rules of Court provides that "when this is possible", the brief containing the application shall include the name and address of the alleged victims, their next of kin or their duly accredited representatives. That article relaxes the formalities required when filing a complaint for inter-American litigation.

Considerations of the Court

105. This Court will examine the procedural question raised to determine whether some defect is present in the filing of the application such that the case would only cover the alleged victims named in the application and in the Court's June 21, 2002 order.

106. In the amendments it has introduced to its Rules of Procedure, the Court has determined that the brief containing the application must indicate the parties to the case (Article 33 of the Rules of Procedure), the parties being understood to include the duly identified alleged victims (Article 2, paragraph 23 of the Rules of Procedure). As the Court has held in specific cases submitted to its jurisdiction, "just

as every individual has human rights, so must any [alleged] violation of those rights be examined on an equally individual basis."[53]

107. In its jurisdictional function, and pursuant to Article 62 of the American Convention, the Court has jurisdiction over "all cases concerning the interpretation and application of the provisions of this Convention" for the purpose of establishing the international responsibility of a State party to the Convention for alleged violations of the human rights of persons subject to its jurisdiction. Hence, the Court deems that proper identification, by name, of the person whose right or freedom is alleged to have been breached is essential.

108. This identification requirement is different from the one applied in the case of provisional measures for preventive purposes, where the Court is authorized to order special measures of protection in cases of extreme gravity and urgency, when necessary to avoid irreparable damage to persons in response to some threat or possible violation of some right of the American Convention and on the understanding that the merits of the matter are not being judged. In such cases, the beneficiaries of the measures need only be "identifiable" for purposes of affording them those special measures of protection.[54]

109. In view of the foregoing, and in order to guarantee the *effet utile* of Article 23 of the Rules of Procedure and effective protection of the rights of the alleged victims, the latter must be properly identified and named in the application that the Inter-American Commission files with this Court.

110. In its June 21, 2002 order, the Court resolved, *inter alia*, to request the Commission, within three months' time, to identify, by name, the "children and adolescents interned at the 'Panchito López' Juvenile Reeducation Institute between August 1996 and July 2001, and thereafter sent to adult prisons in Paraguay." In that order, it notified the Commission that if the list was not sent, the case would continue to be processed, but only regarding to the alleged victims identified in the application.

111. On September 19, 2002, which was within the three-month time period the Court set in the aforementioned order, the Commission sent the Secretariat a list of the alleged victims (*supra* para. 34), which was the very same list that the State itself had supplied to the Commission. On November 19, 2002, by which time the three-month period had expired, the Commission sent the Secretariat a "combined chart" (*supra* para. 36*).* On both occasions, in observance of the right of defense and in keeping with the adversarial action principle, all documentation was forwarded to the State; the latter, however, filed no objection or even any comment with regard to the two lists. With that the problem posed by the fact that the identity of some of the alleged victims was either unknown or not given was corrected; as a consequence, the Court proceeded to take cognizance of the case in respect of the

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[53] *Case of Durand and Ugarte, Preliminary Objections.* Judgment of May 28, 1999. Series C No. 50, para. 48.

[54] *Cf.* Article 63(2) of the American Convention; *Case of Carlos Nieto et al..* Provisional Measures. Order of the Inter-American Court of Human Rights, July 9, 2004, second paragraph under 'Considering'*; Matter of Urso Branco Prison.* Provisional Measures. Order of the Inter-American Court of Human Rights of July 7, 2004, second paragraph under 'Considering'*;* and the Case of the *"El Nacional" and "Así es la Noticia" Newspapers.* Provisional Measures. Order of the Inter-American Court of Human Rights of July 6, 2004, second paragraph under 'Considering'.

inmates at the Center between August 14, 1996 and July 25, 2001, who represent all the alleged victims identified and named on the list in question.

112. The Court must emphasize that the acceptance of that list to identify the inmates interned at the Center between August 1996 and July 2001, who are the alleged victims in the case, does not imply any decision with regard to the merits and eventual reparations in the instant case. In the sections dealing with the merits, the Court will examine the question of whether the violations of the Articles alleged in the Commission's application and in the representatives' brief of pleadings and motions regarding the facts set out in the application, did or did not occur.

113. The Court therefore dismisses the State's preliminary objection claiming a legal defect in the presentation of the application.

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SECOND PRELIMINARY OBJECTION

Failure to claim violation of Article 26 of the American Convention at the proper stage in the proceedings

Pleadings of the State

114. The State's arguments regarding to its second preliminary objection were as follows:

a) based on the principle of equality of arms and the right of defense, and in keeping with the Court's case law, the Court should allow the exception for failure to claim violation of Article 26 of the American Convention;

b) under Article 61 of the American Convention, only the Commission and the States parties determine the subject matter of the litigation; therefore, the representatives' pleading that the Court consider the alleged violation of Article 26 of the Convention, in relation to Articles XI, XII, XIII and XV of the American Declaration of the Rights and Duties of Man, should be declared inadmissible; and

c) the representatives' claim regarding the State's alleged violation of the rights upheld in Article 26 of the American Convention, in relation to Articles XI, XII and XV of the American Declaration, was never the subject of debate or discussion in the case before the Commission. Indeed, no reference is made to any such alleged violation in Report No. 126/01 on Admissibility and Merits.

Pleadings of the Commission

115. Regarding this second preliminary objection raised by the State, the Inter-American Commission pointed out that:

a) technically speaking and in the strictest sense of the expression "preliminary objections," under Article 36 of the Court's Rules of Procedure such objections may only be filed in the brief answering the application.

However, as the Rules of Procedure of the Court do not specify a specific opportunity to submit comments on the representatives' brief of pleadings and motions, the Commission's interpretation is that the State included those comments in the answer to the application and called them a "preliminary objection";

b) in its answer to the application, the State must specify whether it accepts the facts and claims or whether it contests them, and the Court may consider accepted those facts that have not been expressly denied and the claims that have not been expressly contested. Therefore, it is the Commission's application and the State's answer that determine the object of the *litis* before the Court;

c) the Court has the inherent power to determine the scope of its own competence (*compétence de la compétence / Kompetenz-Kompetenz*) in the instant case. Moreover, by virtue of the principle of *iura novit curia*, "repeatedly invoked in the jurisprudence of international courts," the Court has "the authority and even the duty to apply the pertinent legal provisions in a case, even when the parties do not expressly invoke them";

d) the representatives never alleged that the State had violated Article 26 of the Convention or Articles XI, XII, XIII and XV of the American Declaration, either in their original petition or throughout the approximately five years of proceedings in the case in the Commission. The Commission, therefore, never forwarded any such allegations of law to the State, nor were they debated in the proceedings before the Commission; and

e) if the Court considers that the representatives' argument pertains to the violation of Article 19 of the Convention and that the reference to Article 26 of the American Convention and the provisions of the American Declaration and the Convention on the Rights of the Child is for the purpose of steering the interpretation of Article 19 of the Convention, the Commission would not object, as Article 19 was at issue in the case before the Commission and figures in the report on the merits and in the application.

Pleadings of the representatives

116. With regard to the second preliminary objection posed by the State, the representatives:

a) asked the Court to dismiss the objection inasmuch as the facts that support the violation of Article 26 of the Convention were debated in the proceedings before the Commission. In fact, the Commission included these violations in Report No. 126/01 on Admissibility and Merits and in the application it filed with the Court, but simply classified them in a different juridical category;

b) based their position on the fact that with the entry into force of the Court's new Rules of Procedure, they now have autonomous standing to submit their interpretation of the facts in the case and the rights violated; and

c) argued that the differing juridical classification of the violations discussed and proven during the proceedings before the Commission does not violate the principle of equality of arms or the State's right of defense.

Considerations of the Court

117. Before turning its attention to the State's second preliminary objection, the Court believes that some clarification is needed with regard to the possibility suggested by the Commission that the State may file preliminary objections to the arguments made by the representatives in the instant case in their brief of pleadings and motions.

118. To that end, some mention must be made of the various amendments to the article governing the participation of the alleged victims and their duly accredited legal representatives.

119. Article 35(4) of the Rules of Procedure in effect at the time the application in the instant case was filed, provided that the representatives had the authority to present autonomously to the Court their requests, arguments and evidence.

120. The previous version of Article 36 of the Court's Rules of Procedure -now Article 37- provides that:

> 1. Preliminary objections may only be filed in the brief answering the application.
>
> 2. The document setting out the preliminary objections shall set out the facts on which the objection is based, the legal arguments, and the conclusions and supporting documents, as well as any evidence which the party filing the objection may wish to produce.
>
> [...]

121. Thus, the text of the article in question makes no mention of the possibility of filing preliminary objections to the brief of pleadings and motions, either before the Rules of Procedure were amended or thereafter. However, the principle of legal certainty and justice demand that the parties be able to avail themselves of their right of defense. Consequently, based on the adversarial action principle and absent any impediment, the State may, in its answer to the application, enter objections, present observations and, where appropriate, file preliminary objections not just to the application but to the brief of pleadings and motions as well.

122. Furthermore, the Court's *usage constant* has been that the respondent State presents its comments on the representatives' brief of pleadings and motions in its brief answering the application, a practice legislated in Article 38 of the Rules of Procedure as amended on November 25, 2003, which took effect on January 1, 2004. It reads as follows:

> 1. The respondent shall answer the application in writing within a period of 4 months of the notification, which may not be extended. The requirements indicated in Article 33 of these Rules shall apply. The Secretary shall communicate the said answer to the persons referred to in Article 35(1) above. Within this same period, the respondent shall present its comments on the written brief containing pleadings, motions and evidence. These observations may be included within the answer to the application or within a separate brief.

123. The Court is mindful that the new provisions of amended Article 38 were not in effect at the time the application was filed; however, they were the *usage constant* of the Court. Therefore, the Court considers that the amended Article 38 can be useful in shedding light on the question posed, since it makes plain the fact that the respondent State has the procedural opportunity, either in its brief answering the application or in another separate brief, to exercise its right to defend itself against the brief of pleadings and motions filed by the representatives, and that right must of necessity include the possibility of filing whatever preliminary objections it deems necessary.

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124. This Court will now examine the question of whether other facts or rights not included in the application can be alleged or claimed, respectively. With regard to the facts under examination in this proceeding, this Court considers, as it has on other occasions, that new facts other than those set forth in the application are inadmissible whereas facts that explain, clarify or rebut those alleged in the application or that answer the plaintiff's claims are admissible.[55] Facts that qualify as supervening facts can also be brought to the Court's attention at any stage in the process, before the judgment is delivered.[56]

125. Regarding to the inclusion of rights other than those already encompassed by the Commission's application, this Court has held that the claimants can invoke said rights.[57] It is they who are entitled to all the rights protected under the American Convention, and not to admit the inclusion of other rights would be to unduly restrict their status as subjects of the International Law of Human Rights. It is understood that any other rights invoked must be regarding to facts already contained in the application.[58]

126. The Court is empowered to examine possible violations of Articles of the Convention that were not included in the brief of application, the brief answering the application, and the representatives' brief of pleadings, motions and evidence. The basis of this authority of the Court is *iura novit curia*, a long-established principle of international jurisprudence whereby "the judge has the power and even the obligation to apply the pertinent legal provisions in a case, even when the parties do not invoke them expressly."[59] It is understood that the parties will always be given an opportunity to present whatever arguments and evidence they deem relevant to support their position vis-à-vis all the legal provisions under examination.

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[55] *Cf. Case of the Gómez Paquiyauri Brothers, supra* note 26, para. 178; and *Case of the "Five Pensioners"*. Judgment of February 28, 2003. Series C No. 98, para. 153.

[56] *Cf. Case of the Gómez Paquiyauri Brothers, supra* note 26, para. 178; *Case of Myrna Mack Chang*, *supra* note 40, para. 128; and *Case of Bulacio*. Judgment of September 18, 2003. Series C No. 100, para. 57.

[57] *Cf. Case of the Gómez Paquiyauri Brothers, supra* note 26, para. 179; *Case of Herrera Ulloa, supra* note 29, para. 142; and *Case of Maritza Urrutia.* Judgment of November 27, 2003. Series C No. 103, para. 134.

[58] *Supra* note 57.

[59] *Cf. Case of the Gómez Paquiyauri Brothers, supra* note 26, para. 179; *Case of the "Five Pensioners"*, *supra* note 55, para. 156; and *Case of Cantos.* Judgment of November 28, 2002. Series C No. 9, para. 58.

127. The Court therefore dismisses the State's preliminary objection asserting failure to claim the violation of Article 26 at the proper procedural opportunity.

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* *

THIRD PRELIMINARY OBJECTION

Litis pendencia

Pleadings of the State

128. In its brief of preliminary objections, the State asked the Court to accept the preliminary objection claiming *litis pendencia* on the grounds that two cases are pending, one in the domestic courts and another in an international court, involving the same subjects, object and cause of action.

129. In its final oral submissions the State withdrew this preliminary objection, and confirmed its withdrawal of this preliminary objection in its final written submissions.

Pleadings of the Commission

130. The Commission asked the Court to dismiss this preliminary objection brought by the State and explained the grounds for its request. Upon learning that the State had withdrawn this preliminary objection, the Commission asked the Court to consent to the withdrawal.

Pleadings of the representatives

131. For their part, the representatives asked the Court to dismiss the State's preliminary objection alleging *litis pendencia,* and explained the grounds for their request. Once the State withdrew that preliminary objection, the representatives made no further reference to it.

Considerations of the Court

132. Inasmuch as the State withdrew its preliminary objection of *litis pendencia,* this Court considers it withdrawn and will now move on to the merits of the case.

VII

FACTS PROVEN

133. Having examined the documents, the statements of the witnesses, the opinions of the experts and the pleadings of the Commission, of the representatives and of the State during the course of the present proceeding, this Court deems the following facts proven:

Background information

134.1 The 'Panchito López' Center was under the authority of the Ministry of Justice and Labor of Paraguay.[60]

134.2 The Center was first located in the city of Emboscada, Paraguay, which is some 50 km from Asunción. It was not easily accessible. Subsequently, the State decided to convert that facility into a maximum security prison for adults. With that, the inmates interned at the 'Panchito López' Center were moved to a place that was originally built as a private residence in Asunción.[61]

General conditions of incarceration at the Center

134.3 Having been designed to serve as a residence, the Center did not have the proper infrastructure for a detention facility.[62]

134.4 The Center was a facility for incarcerating children in conflict with the law. Most of the children at the Center came from marginal sectors of society.[63] The inmate population was increasing, giving rise to inmate overcrowding and a lack of security and safety.[64] Between August 1996 and July 2001, the population at the

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[60] *Cf.* Report of the coordinator of Human Rights of Paraguay (CODEHUPY), "Human Rights in Paraguay, 1996" (file of appendixes to the application, appendix 55, folio 642).

[61] *Cf.* Amnesty International article titled: "Panchito López Juvenile Detention Centre: An opportunity for the Government of Paraguay to meet its promises" AI Index: AMR 45/004/2001, April 2001 (file of appendixes to the application, appendix 21, folio 329); report by the Coordinator of Human Rights of Paraguay (CODEHUPY), "Human Rights in Paraguay, 1996" (file of appendixes to the application, appendix 55, folio 647); excerpt from the book titled "*Casas de Violencia. Situación carcelaria en el Paraguay,*" by Jorge Rolón Luna (file of appendixes to the brief of preliminary objections, and comments on the brief of pleadings and motions, appendix 41, volume IV, folio 1588); testimony given by Mr. Raúl Guillermo Ramírez Bogado in the presence of a person with legal authority to authenticate documents, on March 26, 2004 (file of written statements supplied by the State, the Inter-American Commission and the alleged victims' representatives, the Commission's appendix, folio 197).

[62] *Cf.* Report of the Coordinator of Human Rights of Paraguay (CODEHUPY), "Human Rights in Paraguay, 1996" (file of appendixes to the application, appendix 55, folio 647); record of the November 15, 2000 meeting, which the Permanent Mission of Paraguay to the Organization of American States supplied to the Inter-American Commission by note of January 16, 2001 (file of appendixes to the application, appendix 19, folio 276); excerpt from the book titled "*Casas de Violencia. Situación carcelaria en el Paraguay,*" by Jorge Rolón Luna (file of appendixes to the brief of preliminary objections, and comments on the brief of pleadings and motions, appendix 41, volume IV, folio 1588); testimony given by Ms. Mirtha Isabel Herreras Fleitas at the Office of the Chief Government Notary of the Republic of Paraguay, March 23, 2004 (file of written statements supplied by the State, the Inter-American Commission and the alleged victims' representatives, the State's appendix, folios 67-68).

[63] *Cf.* testimony given by Mrs. Rosalía Figueredo before the Inter-American Court of Human Rights at the public hearing held on May 3, 2004; testimony given by Mr. Juan Antonio de la Vega Elorza before the Inter-American Court of Human Rights at the public hearing held on May 3, 2004; affidavit given by Mrs. María Teresa de Jesús Pérez in the presence of a person with legal authority to authenticate documents, on March 30, 2004 (file of written statements supplied by the State, the Inter-American Commission and the alleged victims' representatives, representatives' appendix, folio 251); questions that Ms. Viviana Krsticevic, Executive Director of CEJIL, asked of young Pedro Iván Peña, and his answers to those questions, which appear in a document dated March 26, 2004 (file of written statements supplied by the State, the Inter-American Commission and the alleged victims' representatives, representatives' appendix, folio 265).

[64] *Cf.* Report of the Coordinator of Human Rights of Paraguay (CODEHUPY), "Human Rights in Paraguay, 1996" (file of appendixes to the application, appendix 55, folio 648); record of the November 15, 2000 meeting, which the Permanent Mission of Paraguay to the Organization of American States

Center exceeded its maximum by another 50%.[65] The State acknowledged the situation on a number of occasions, and also admitted to the general structural flaws in the system for treatment of juveniles in conflict with the law in Paraguay.[66]

134.5 The inmates at the Center were confined in unsanitary cells with few hygienic facilities.[67]

134.6 The inmates were ill-fed and lacked proper medical, psychological and dental care.[68]

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supplied to the Inter-American Commission by note of January 16, 2001 (file of appendixes to the application, appendix 19, folio 276).

[65] *Cf.* Report of July 21, 1999, prepared by the Office of the Director General of Penal Institutions in Paraguay, concerning penal institutions in Paraguay (file of appendixes to the application, appendix 1-A, folio 11); excerpt from the book titled "*Casas de Violencia. Situación carcelaria en el Paraguay,*" by Jorge Rolón Luna (file of appendixes to the brief of preliminary objections, and comments on the brief of pleadings and motions, appendix 41, volume IV, folio 1589); Report of the Coordinator of Human Rights of Paraguay (CODEHUPY), "Human Rights in Paraguay, 1996" (file of appendixes to the application, appendix 55, folio 645); Report of July 21, 1999, prepared by the Office of the Director General of Penal Institutions in Paraguay, concerning penal institutions in Paraguay (file of appendixes to the application, appendix 1-A, folios 4, 11, 13 and 14); Amnesty International article titled: "Panchito López Juvenile Detention Centre: An opportunity for the Government of Paraguay to meet its promises" AI Index: AMR 45/004/2001, April 2001 (file of appendixes to the application, appendix 21, folio 329); testimony given by Mr. Michael Sean O'Loingsigh, before the Office of the Chief Government Notary of the Republic of Paraguay, March 23, 2004 (file of written statements supplied by the State, the Inter-American Commission and the alleged victims' representatives, appendix for the State, folio 43); note dated June 18, 2001, from Father Michael Sean O'Loingsigh, Deputy Director of the 'Panchito López' Center, to Mr. Eustacio Rodríguez Benitez, Director of the Center (file of appendixes to the application, appendix 23, folio 395).

[66] *Cf.* The State's April 26, 2002 note to the Inter-American Commission (file of appendixes to the application, appendix 4, folio 123); record of the November 15, 2000 meeting, which the Permanent Mission of Paraguay to the Organization of American States supplied to the Inter-American Commission by note of January 16, 2001 (file of appendixes to the application, appendix 19, folio 276); document titled " 'Col. Panchito López' Juvenile Correctional Facility, 1998 Report" (file of appendixes to the brief of preliminary objections, answer to the application and comments on the pleadings and motions, appendix 13, volume I, folio 293).

[67] *Cf.* Affidavit of young Francisco Ramón Adorno, given in the presence of a person with legal authority to authenticate documents on March 26, 2004 (file of written statements supplied by the State, the Inter-American Commission and the alleged victims' representatives, Commission appendix, folio 179).

[68] *Cf.* Report of July 21, 1999, prepared by the Office of the Director General of Penal Institutions in Paraguay, concerning penal institutions in Paraguay (file of appendixes to the application, appendix 1-A, folios 12, 14 and 18); affidavit given by young Clemente Luis Escobar González in the presence of a person with legal authority to authenticate documents, on March 30, 2004 (file of written statements supplied by the State, the Inter-American Commission and the alleged victims' representatives, representatives' appendix, folio 236); affidavit of young Francisco Ramón Adorno, given in the presence of a person with legal authority to authenticate documents, on March 26, 2004 (file of written statements supplied by the State, the Inter-American Commission and the alleged victims' representatives, Commission appendix, folios 180-181); Amnesty International publication titled "Panchito López Juvenile Detention Centre: An opportunity for the Government of Paraguay to meet its promises" AI Index: AMR 45/004/2001 (file of appendixes to the application, appendix 21, folio 328); document titled "'Col. Panchito López' Juvenile Correctional Facility, 1998 Report" (file of appendixes to the brief of preliminary objections, answer to the application and comments on the pleadings and motions, appendix 13, volume I, folio 285); excerpt from the book titled "*Casas de Violencia. Situación carcelaria en el Paraguay,*" by Jorge Rolón Luna (file of appendixes to the brief of preliminary objections, and comments on the brief of pleadings and motions, appendix 41, volume IV, folios 1594-1595); February 16, 2001 memorandum from the Director General of Human Rights to the Deputy Minister of Justice (file of appendixes to the written brief of pleadings and motions, appendix 18, volume I, folio 95); April 12, 1994 report by psychiatric experts Dr. Carlos Alberto Arestivo, Lic. Genaro Rivera Hunter and Lic. Mario Torres, which is in the file of the petition of generic *habeas corpus* filed with the Civil and Commercial Law Court of First Instance, Ninth Rotation, on behalf of the juveniles in the 'Col. Panchito López' Juvenile Reeducation Institute (file of appendixes to the written brief of pleadings and motions, appendix 1D, volume II, folios

134.7 Inmates with physical disabilities,[69] mental disorders and/or addictions[70] did not receive medical attention suited to their special needs.[71]

134.8 Inmates had few opportunities to exercise or to participate in recreational activities.[72]

134.9 Many inmates had no bed, blanket and/or mattress, which meant that they had to sleep on the floor, take turns with their fellow inmates, or share beds and mattresses.[73]

379-380 and 382); testimony given by young Osmar López Verón in the presence of a person with legal authority to authenticate documents, on March 26, 2004 (file of written statements supplied by the State, the Inter-American Commission and the alleged victims' representatives, Commission appendix, folios 190-191); testimony given by Ms. Dirma Monserrat Peña in the presence of a person with legal authority to authenticate documents, on March 30, 2004 (file of written statements supplied by the State, the Inter-American Commission and the alleged victims' representatives, representatives' appendix, folio 229); questions that Ms. Viviana Krsticevic, Executive Director of CEJIL, asked of young Raúl Esteban Portillo, and his answers to those questions, which appear in a document dated March 25, 2004 (file of written statements supplied by the State, the Inter-American Commission and the alleged victims' representatives, representatives' appendix, folio 282).

[69] *Cf.* June 18, 2001 note from Father Michael Sean O'Loingsigh, Deputy Director of the 'Panchito López' Center, to Mr. Eustacio Rodríguez Benitez, the Center's Director (file of appendixes to the application, appendix 23, folio 395).

[70] *Cf.* testimony given by Ms. Gloria Carolina Noemí Nicora de Martínez at the Office of the Chief Government Notary of the Republic of Paraguay, March 22, 2004 (file of written statements supplied by the State, the Inter-American Commission and the alleged victims' representatives, State appendix, folio 36); testimony given by Ms. Mirtha Isabel Herreras Fleitas at the Office of the Chief Government Notary of the Republic of Paraguay, March 23, 2004 (file of written statements supplied by the State, the Inter-American Commission and the alleged victims' representatives, the State's appendix, folio 72); testimony given by Mr. Dionisio Vega before the Inter-American Court of Human Rights at the public hearing held on May 3, 2004; testimony given by Ms. Rosalía Figueredo before the Inter-American Court of Human Rights at the public hearing held on May 3, 2004 .

[71] *Cf.* testimony given by Ms. María Teresa de Jesús Pérez in the presence of a person with legal authority to authenticate documents, March 30, 2004 (file of written statements supplied by the State, the Inter-American Commission and the alleged victims' representatives, representatives' appendix, folio 258).

[72] *Cf.* testimony given by Mr. Juan Antonio de la Vega Elorza in the presence of a person with legal authority to authenticate documents, December 10, 1993, which is in the file on the petition of generic *habeas corpus* filed with the Civil and Commercial Law Court of First Instance, Ninth Rotation, on behalf of the juveniles in the 'Col. Panchito López' Juvenile Reeducation Institute (file of appendixes to the written brief of pleadings and motions, appendix 1B, volume II, folio 371); testimony given by young Francisco Ramón Adorno in the presence of a person with legal authority to authenticate documents, March 26, 2004 (file of written statements supplied by the State, the Inter-American Commission and the alleged victims' representatives, Commission appendix, folios 180-181); Amnesty International article titled: "Panchito López Juvenile Detention Centre: An opportunity for the Government of Paraguay to meet its promises" AI Index: AMR 45/004/2001, April 2001 (file of appendixes to the application, appendix 21, folio 329); excerpt from the book titled "*Casas de Violencia. Situación carcelaria en el Paraguay,*" by Jorge Rolón Luna (file of appendixes to the brief of preliminary objections, and comments on the brief of pleadings and motions, appendix 41, volume IV, folio 1600); April 13, 1994 report by psychiatric experts Dr. Carlos Alberto Arestivo, Lic. Genaro Rivera Hunter and Lic. Mario Torres, which is in the file of the petition of generic *habeas corpus* filed with the Civil and Commercial Law Court of First Instance, Ninth Rotation, on behalf of the juveniles in the 'Col. Panchito López' Juvenile Reeducation Institute (file of appendixes to the written brief of pleadings and motions, appendix 1D, volume II, folio 381).

[73] *Cf.* testimony given by Mr. Juan Antonio de la Vega Elorza in the presence of a person with legal authority to authenticate documents, December 10, 1993, which is in the file of the petition of generic *habeas corpus* filed with the Civil and Commercial Law Court of First Instance, Ninth Rotation, on behalf of the juveniles in the 'Col. Panchito López' Juvenile Reeducation Institute (file of appendixes to the written brief of pleadings and motions, appendix 1B, volume II, folio 371); testimony given by Mr. Dionisio Vega before the Inter-American Court of Human Rights at the public hearing held on May 3, 2004; testimony

134.10 The lack of beds and mattresses, combined with the overcrowded conditions, provided an enabling environment for sexual abuse among inmates.[74]

134.11 Inmates at the Center engaged in quarrels and fights, which sometimes involved home-made weapons.[75]

The inadequacies of the Center's educational program

134.12 The Youth and Adult Education Center No. 118, an institution certified by the Ministry of Education and Culture, ran a formal educational program at the Center.[76] The program, however, was seriously flawed, as it did not have sufficient

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given by Ms. María Teresa de Jesús Pérez in the presence of a person with legal authority to authenticate documents, March 30, 2004 (file of written statements supplied by the State, the Inter-American Commission and the alleged victims' representatives, representatives' appendix, folio 260); testimony given by young Francisco Ramón Adorno in the presence of a person with legal authority to authenticate documents, March 26, 2004 (file of written statements supplied by the State, the Inter-American Commission and the alleged victims' representatives, Commission appendix, folio 180); report of the Coordinator of Human Rights of Paraguay (CODEHUPY), "Human Rights in Paraguay, 1996" (file of appendixes to the application, appendix 55, folio 648); testimony given by Ms. Dirma Monserrat Peña in the presence of a person with legal authority to authenticate documents, March 30, 2004 (file of written statements supplied by the State, the Inter-American Commission and the alleged victims' representatives, representatives' appendix, folio 229); testimony given by young Osmar López Verón in the presence of a person with legal authority to authenticate documents, March 26, 2004 (file of written statements supplied by the State, the Inter-American Commission and the alleged victims' representatives, Commission appendix, folio 190).

[74] *Cf.* Report of the Coordinator of Human Rights of Paraguay (CODEHUPY), "Human Rights in Paraguay, 1996" (file of appendixes to the application, appendix 55, folio 648); psychological report on young Sergio David Poletti Domínguez, in Case File No. 383 from 2000, titled "Preliminary inquiry into alleged punishable crimes (intentional homicide and grievous bodily harm) - Panchito López," prepared by the Criminal Court of First Instance, Eighth Rotation (file of appendixes to the brief of preliminary objections, answer to the application and observations on the pleadings and motions, appendix 20, volume II, folio 687); testimony given by young Osmar López Verón in the presence of a person with legal authority to authenticate documents, March 26, 2004 (file of written statements supplied by the State, the Inter-American Commission and the alleged victims' representatives, Commission appendix, folio 191); testimony given by Ms. Mirtha Isabel Herreras Fleitas at the Office of the Chief Government Notary of the Republic of Paraguay, March 23, 2004 (file of written statements supplied by the State, the Inter-American Commission and the alleged victims' representatives, the State's appendix, folio 73); testimony given by Mr. Juan Antonio de la Vega Elorza before the Inter-American Court of Human Rights at the public hearing held on May 3, 2004.

[75] *Cf.* expert opinion given by Mr. Mario Torres before the Inter-American Court of Human Rights at the public hearing held on May 3, 2004; July 16, 2001 letter from Mr. Eustacio Rodríguez Benítez, Director of the 'Panchito López' Center, to Dr. Marciano Rodríguez Baez, Director General of Penal Institutions (file of appendixes to the application, appendix 28, folios 417-421); July 17, 2001 letter from Mr. Eustacio Rodríguez Benítez to Dr. Silvio Ferreira, Minister of Justice and Labor (file of appendixes to the application, appendix 29, folio 422).

[76] *Cf.* testimony given by Ms. Teresa Alcaráz de Mencia at the Office of the Chief Government Notary of the Republic of Paraguay, March 25, 2004 (file of written statements supplied by the State, the Inter-American Commission and the alleged victims' representatives, State appendix, folio 21); testimony given by Mr. Michael Sean O'Loingsigh at the Office of the Chief Government Notary of the Republic of Paraguay, March 23, 2004 (file of written statements supplied by the State, the Inter-American Commission and the alleged victims' representatives, State appendix, folio 42); December 6, 2002 report prepared by Ms. Teresa Alcaráz de Mencia, Teaching Supervisor for Zone 14, for Ms. Lorenza Duarte, Director of Youth and Adult Education at the Ministry of Education and Culture, concerning education at the Itauguá Center (file of appendixes to the brief of preliminary objections, answer to the application and observations on the pleadings and motions, appendix 22, volume III, folio 852); document titled " 'Col. Panchito López' Juvenile Reeducation Institute [...] 1998 Report" (file of appendixes to the brief of preliminary objections, answer to the application and observations on the pleadings and motions, appendix 13, volume I, folio 285).

teachers and was inadequately funded.[77] This drastically limited the inmates' opportunity to pursue even elementary studies[78] and/or learn trades.[79]

The guards at the Center

134.13 The Center did not have a sufficient number of guards for the Center's inmate population.[80]

134.14 The guards were not properly trained in the protection of children deprived of their liberty and were not taught the techniques of responding to emergency situations.[81]

134.15 Frequently, the guards at the Center resorted to the use of cruel and brutal punishment to discipline the inmate population.[82]

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[77] *Cf.* expert testimony given by Mr. Mario Torres before the Inter-American Court of Human Rights at the public hearing held on May 3, 2004; Amnesty International article titled: "Panchito López Juvenile Detention Centre: An opportunity for the Government of Paraguay to meet its promises" AI Index: AMR 45/004/2001, April 2001 (file of appendixes to the application, appendix 21, folio 330); excerpt from the book titled "*Casas de Violencia. Situación carcelaria en el Paraguay*", written by Jorge Rolón Luna (file of appendixes to the brief of preliminary objections, answer to the application and observations on the pleadings and motions, appendix 41, volume IV, folio 1598).

[78] *Cf.* document titled " 'Col. Panchito López' Juvenile Reeducation Institute [...] 1998 Report" (file of appendixes to the brief of preliminary objections, pleadings and motions, appendix 13, volume I, folio 287).

[79] *Cf.* April 26, 2002, communication from the State to the Inter-American Commission (file of appendixes to the application, appendix 4, folios 123-124); April 26, 2002, communication from the State to the Inter-American Commission (file of appendixes to the application, appendix 4, folio 124).

[80] *Cf.* Report of July 21, 1999, prepared by the Office of the Director General of Penal Institutions in Paraguay, concerning penal institutions in Paraguay (file of appendixes to the application, appendix 1-A, folio 17); and April 26, 2002 communication from the State to the Inter-American Commission (file of appendixes to the application, appendix 4, folio 124).

[81] *Cf.* testimony given by Ms. Mirtha Isabel Herreras Fleitas at the Office of the Chief Government Notary of the Republic of Paraguay, March 23, 2004 (file of written statements supplied by the State, the Inter-American Commission and the alleged victims' representatives, State's appendix, folio 70); Report of July 21, 1999, prepared by the Office of the Director General of Penal Institutions in Paraguay, concerning penal institutions in Paraguay (file of appendixes to the application, appendix 1-A, folio 17); and March 6, 2000 record of the appearance of Mr. Luis Alberto Barreto Ayala, security guard in charge of the inmates at the 'Panchito López' Center, before the Fourth Criminal Trial and Sentencing Court (file of appendixes to the application, appendix 27, folio 416).

[82] *Cf.* testimony given by young Clemente Luis Escobar González in the presence of a person with legal authority to authenticate documents, March 30, 2004 (file of written statements supplied by the State, the Inter-American Commission and the alleged victims' representatives, representatives' appendix, folio 235); testimony given by Ms. Dirma Monserrat Peña in the presence of a person with legal authority to authenticate documents, March 30, 2004 (file of written statements supplied by the State, the Inter-American Commission and the alleged victims' representatives, representatives' appendix, folios 225-229); testimony given by Ms. María Teresa de Jesús Pérez in the presence of a person with legal authority to authenticate documents, March 30, 2004 (file of written statements supplied by the State, the Inter-American Commission and the alleged victims' representatives, representatives' appendix, folios 253-254); testimony given by young Francisco Ramón Adorno in the presence of a person with legal authority to authenticate documents, March 26, 2004 (file of written statements supplied by the State, the Inter-American Commission and the alleged victims' representatives, Commission appendix, folio 184); testimony given by young Osmar López Verón in the presence of a person with legal authority to authenticate documents, March 26, 2004 (file of written statements supplied by the State, the Inter-American Commission and the alleged victims' representatives, Commission appendix, folio 191); testimony given by Ms. Teofista Domínguez before the Inter-American Court of Human Rights at the public hearing held on May 3, 2004; testimony given by Ms. Felipa Venicia Valdez before the Inter-American

134.16 Punishment measures used included solitary confinement, beatings, torture,[83] and transfers to adult prisons.[84]

134.17 The guards at the Center sold the inmates narcotic substances.[85]

Court of Human Rights at the public hearing held on May 3, 2004; expert testimony given by Mr. Mario Torres before the Inter-American Court of Human Rights at the public hearing held on May 3, 2004; expert testimony given by Ms. Ana Deutsch before the Inter-American Court of Human Rights at the public hearing held on May 3, 2004; July 30, 2001 note from Mr. Eustacio Rodríguez Benítez, Director of the Center, to attorney Gloria Benítez, prosecutorial agent for juvenile offenders (file of appendixes to the application, appendix 25, folio 398); excerpt from the book titled "*Casas de Violencia. Situación carcelaria en el Paraguay*", written by Jorge Rolón Luna (file of appendixes to the brief of preliminary objections, answer to the application and observations on the pleadings and motions, appendix 41, volume IV, folios 1600-1601); April 19, 1994 report prepared by the expert social worker Stella Mary García Agüero, which appears in the document titled "Excerpts from the file on the petition of generic *habeas corpus* filed with the Civil and Commercial Law Court of First Instance, Ninth Rotation, on behalf of the juveniles in the "Col. Panchito López" Juvenile Reeducation Institute (file of appendixes to the written brief of pleadings and motions, appendix 1E, volume II, folio 392); questions that Ms. Viviana Krsticevic, Executive Director of CEJIL, asked of young Pedro Iván Peña and his answers to them, which appear in a document dated March 26, 2004 (file of written statements supplied by the State, the Inter-American Commission and the alleged victims' representatives, representatives' appendix, folio 266); questions that Ms. Viviana Krsticevic, Executive Director of CEJIL, asked of young Raúl Esteban Portillo, and his answers to them, which appear in a document dated March 25, 2004 (file of written statements supplied by the State, the Inter-American Commission and the alleged victims' representatives, representatives' appendix, folios 275-276).

[83] *Cf.* testimony given by young Clemente Luis Escobar González in the presence of a person with legal authority to authenticate documents on March 30, 2004 (file of written statements supplied by the State, the Inter-American Commission and the alleged victims' representatives, representatives' appendix, folios 235-236); expert opinion given by Mr. Mario Torres before the Inter-American Court of Human Rights at the public hearing held on May 3, 2004; expert opinion given by Ms. Ana Deutsch before the Inter-American Court of Human Rights at the public hearing held on May 3, 2004; testimony given by Ms. Felipa Venicia Valdez before the Inter-American Court of Human Rights at the public hearing held on May 3, 2004; testimony given by Mr. Juan Antonio de la Vega Elorza before the Inter-American Court of Human Rights at the public hearing held on May 3, 2004; testimony given by Mrs. Teofista Domínguez before the Inter-American Court of Human Rights at the public hearing held on May 3, 2004; testimony given by Mr. Dionisio Vega before the Inter-American Court of Human Rights at the public hearing held on May 3, 2004; testimony given by Mrs. Dirma Monserrat Peña in the presence of a person with legal authority to authenticate documents, March 30, 2004 (file of written statements supplied by the State, the Inter-American Commission and the alleged victims' representatives, representatives' appendix, folio 229); questions that Ms. Viviana Krsticevic, Executive Director of CEJIL, asked of young Pedro Iván Peña and his answers to those questions, which appear in a document dated March 26, 2004 (file of written statements supplied by the State, the Inter-American Commission and the alleged victims' representatives, representatives' appendix, folios 265-266); questions that Ms. Viviana Krsticevic, Executive Director of CEJIL, asked of young Raúl Esteban Portillo and his answers to those questions, which appear in a document dated March 25, 2004 (file of written statements supplied by the State, the Inter-American Commission and the alleged victims' representatives, representatives' appendix, folios 275-276); expert opinion given by Mr. Carlos Arestivo in the presence of a person with legal authority to authenticate documents, March 25, 2004 (file of written statements supplied by the State, the Inter-American Commission and the alleged victims' representatives, Commission appendix, folio 210).

[84] *Cf.* April 2, 2001 note from the Director General of Penal Institutions, who intervened in the 'Panchito López' Center, to the directors of the Col. Oviedo and Villa Rica prisons, sending them five juveniles as a disciplinary measure (file of appendixes to the written brief of pleadings and motions, appendix 25, volume I, folios 113-114).

[85] *Cf.* July 17, 2001 letter from Mr. Eustacio Rodríguez Benítez to Dr. Silvio Ferreira, Minister of Justice and Labor (file of appendixes to the application, appendix 29, folio 422); testimony given by Mr. Juan Antonio de la Vega Elorza before the Inter-American Court of Human Rights at the public hearing held on May 3, 2004; questions that Ms. Viviana Krsticevic, Executive Director of CEJIL, asked of young Raúl Esteban Portillo and his answers, which appear in a document dated March 25, 2004 (file of written statements supplied by the State, the Inter-American Commission and the alleged victims' representatives, representatives' appendix, folio 281).

General observations on the law in Paraguay and how it affected the inmates at the Center

134.18 The previous Code of Criminal Procedure was still in effect between 1996 and 2000, and applied to adults and children alike. Preventive detention or detention pending trial was the rule rather than the exception.[86] The new Code of Criminal Procedure, which took full effect in 2000, provides that preventive detention should be used only in exceptional cases.[87] Nevertheless, this provision has not been fully enforced.[88]

134.19 The vast majority of the Center's inmates were awaiting or standing trial, but had not yet been convicted.[89]

134.20 The inmates awaiting or standing trial and still not convicted by a court of law were not separated from the inmates who had been convicted.[90]

134.21 Of all the inmates in the Center between August 14, 1996 and July 25, 2001, at least 153 were, when they entered, adults under the law in effect at the time (*infra* para. 134.58). Of these, 118 were 20 years old when they entered; 28 were 21 when they entered; five were 22, one was 23 and another was 24.[91] These adult inmates were not segregated from the inmates who were minors.[92]

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[86] *Cf.* expert testimony given by Mr. Pedro Juan Mayor Martínez at the Office of the Chief Government Notary of the Republic of Paraguay, March 25, 2004 (file of written statements supplied by the State, the Inter-American Commission and the alleged victims' representatives, State's appendix, folio 163).

[87] *Cf.* Articles 234 to 236 of the Code of Criminal Procedure.

[88] *Cf.* expert testimony given by Mr. Luis Emilio Escobar Faella before the Inter-American Court of Human Rights during the public hearing held on May 5, 2004.

[89] *Cf.* Report of July 21, 1999, prepared by the Office of the Director General of Penal Institutions in Paraguay, concerning penal institutions in Paraguay (file of appendixes to the application, appendix 1-A, folio 4); and Amnesty International article titled: "Panchito López Juvenile Detention Centre: An opportunity for the Government of Paraguay to meet its promises" AI Index: AMR 45/004/2001, April 2001 (file of appendixes to the application, appendix 21, folio 328).

[90] *Cf.* Amnesty International article titled: "Panchito López Juvenile Detention Centre: An opportunity for the Government of Paraguay to meet its promises" AI Index: AMR 45/004/2001, April 2001 (file of appendixes to the application, appendix 21, folio 328); excerpt from the book titled "*Casas de Violencia. Situación carcelaria en el Paraguay*", by Jorge Rolón Luna (file of appendixes to the brief of preliminary objections, answer to the application and observations on the pleadings and motions, volume IV, appendix 41, folio 1602); April 26, 2002 communication from the State to the Inter-American Commission (file of appendixes to the application, appendix 4, folio 125); testimony given by young Francisco Ramón Adorno in the presence of a person with legal authority to authenticate documents, March 26, 2004 (file of written statements supplied by the State, the Inter-American Commission and the alleged victims' representatives, Commission's appendix, folio 179).

[91] *Cf.* Combined list, dated November 19, 2001, which the Commission sent to the Court containing information on the persons who were inmates at the Center in the period from August 14, 1996 to July 25, 2001 (file on the merits, volume V, folios 1313-1435).

[92] Uncontested fact.

134.22 In general, the inmates' court cases moved very slowly.[93]

134.23 Although the inmates had legal counsel,[94] it was, in general, unsatisfactory.[95]

134.24 The constant threats to the inmates' personal safety, the overcrowding and the Center's grossly inadequate resources and infrastructure created a sense of desperation in the inmates and made them more prone to violence.[96] Rather than being rehabilitated at the Center to successfully rejoin society, the inmates endured

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[93] *Cf.* expert testimony given by Mr. Luis Emilio Escobar Faella before the Inter-American Court of Human Rights at the public hearing held on May 5, 2004; document titled "'Col. Panchito López' Juvenile Correctional Facility, 1998 Report" (file of appendixes to the brief of preliminary objections, answer to the application and comments on the pleadings and motions, appendix 13, volume I, folio 293); testimony given by young Francisco Ramón Adorno in the presence of a person with legal authority to authenticate documents, March 26, 2004 (file of written statements supplied by the State, the Inter-American Commission and the alleged victims' representatives, Commission's appendix, folio 184).

[94] *Cf.* Report on the February 11, 2000 fire, prepared by the Office of the Director General of Human Rights of the Ministry of Justice and Labor (file of appendixes to the application, appendix 2, folios 88-93 *et seq.*); list of children and adolescents sent to adult prisons (file of appendixes to the application, appendix 41, folio 515 *et seq.*); "'Col. Panchito López' Juvenile Correctional Facility, 1998 Report" (file of appendixes to the brief of preliminary objections, answer to the application and comments on the pleadings and motions, appendix 13, volume I, folio 284); February 22, 2001 report by the person assigned to intervene in the 'Panchito López' Center, to the Deputy Minister of Justice concerning the activities undertaken in the wake of the February 2001 fire (file of appendixes to the written brief of pleadings and motions, appendix 21, volume I, folio 101); testimony given by young Francisco Ramón Adorno in the presence of a person with legal authority to authenticate documents, March 26, 2004 (file of written statements supplied by the State, the Inter-American Commission and the alleged victims' representatives, Commission's appendix, folio 184); testimony given by Ms. María Elizabeth Flores Negri at the Office of the Chief Government Notary of the Republic of Paraguay, March 24, 2004 (file of written statements supplied by the State, the Inter-American Commission and the alleged victims' representatives, State's appendix, folio 117); testimony given by Mr. Juan Antonio de la Vega Elorza before the Inter-American Court of Human Rights at the public hearing held on May 3, 2004; September 17, 2001 report sent by the Office of the Director General of Human Rights of the Republic of Paraguay to the Deputy Minister of Justice (file of appendixes to the application, appendix 30, folio 431).

[95] *Cf.* March 2002 report that the Ministry of Justice and Labor sent to the Inter-American Commission concerning the measures the State had taken to comply with the recommendations made by the Inter-American Commission on Human Rights in its "Third Report on the Situation of Human Rights in Paraguay" (file of appendixes to the brief of preliminary objections, answer to the application and observations on the pleadings and motions, appendix 11, volume I, folio 241); testimony of Ana María de Jesús Llanes Ferreira, magistrate, at the Office of the Chief Government Notary of the Republic of Paraguay, March 23, 2004 (file of written statements supplied by the State, the Inter-American Commission and the alleged victims' representatives, State's appendix, folio 85); testimony of Maureen Antoinette Herman, an official with PROJOVEN, given at the Office of the Chief Government Notary of the Republic of Paraguay, March 23, 2004 (file of written statements supplied by the State, the Inter-American Commission and the alleged victims' representatives, State's appendix, folio 92); testimony given by young Clemente Luis Escobar González in the presence of a person with legal authority to authenticate documents, March 30, 2004 (file of written statements supplied by the State, the Inter-American Commission and the alleged victims' representatives, representatives' appendix, folio 235); testimony given by Mr. Juan Antonio de la Vega Elorza before the Inter-American Court of Human Rights at the public hearing held on May 3, 2004 .

[96] *Cf.* testimony given by Mr. Juan Antonio de la Vega Elorza in the presence of a person with legal authority to authenticate documents, December 10, 1993, which is in the file for the petition of generic *habeas corpus* filed with the Civil and Commercial Law Court of First Instance, Ninth Rotation, on behalf of the juveniles in the 'Col. Panchito López' Juvenile Reeducation Institute (file of appendixes to the written brief of pleadings and motions, appendix 1B, volume II, folio 371); April 12, 1994 report by psychiatric experts Dr. Carlos Alberto Arestivo, Lic. Genaro Rivera Hunter and Lic. Mario Torres, which is in the file of the petition of generic *habeas corpus* filed with the Civil and Commercial Law Court of First Instance, Ninth Rotation, on behalf of the juveniles in the 'Col. Panchito López' Juvenile Reeducation Institute (file of appendixes to the written brief of pleadings and motions, appendix 1D, volume II, folio 381).

daily suffering and went through a counterproductive, brutal learning process, which in part explains the high recidivism rate among the inmates.[97]

The fires at the Center

134.25 Over the last 10 years, there were a number of clashes at the Center between inmates and guards and among the inmates themselves.[98] Subsequent to the date on which the present case was filed with the Inter-American Commission, which was in 1996, the Center had three fires (*infra* paragraphs 134.29, 134.33 and 134.34).

134.26 Because it was a juvenile detention facility, a number of international organizations, national nongovernmental organizations, and individuals reported the dangerous situation at the 'Panchito López' Center to the Senate Human Rights Commission, the Paraguayan Ambassador in Washington, D.C., and to the Ministry of Justice and Labor.[99] However, those complaints failed to bring about any significant change in the conditions under which the children were held.[100]

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[97] *Cf.* expert testimony given by Mr. Mario Torres before the Inter-American Court of Human Rights at the public hearing held on May 3, 2004; document titled "Concluding Observations of the Committee on the Rights of the Child: Paraguay 06/11/2001" CRC/C/15/Add.166 (file of appendixes to the application, appendix 51, folio 612); document titled "'Col. Panchito López' Juvenile Correctional Facility, 1998 Report" (file of appendixes to the brief of preliminary objections, answer to the application and comments on the pleadings and motions, appendix 13, volume I, folio 293); testimony given by young Clemente Luis Escobar González in the presence of a person with legal authority to authenticate documents, March 30, 2004 (file of written statements supplied by the State, the Inter-American Commission and the alleged victims' representatives, representatives' appendix, folio 235); testimony given by Mr. Juan Antonio de la Vega Elorza in the presence of a person with legal authority to authenticate documents, December 10, 1993, which is in the file for the petition of generic *habeas Corpus* filed with the Civil and Commercial Law Court of First Instance, Ninth Rotation, on behalf of the juveniles in the 'Col. Panchito López' Juvenile Reeducation Institute (file of appendixes to the written brief of pleadings and motions, appendix 1B, volume II, folios 371-372); April 12, 1994 report by psychiatric experts Dr. Carlos Alberto Arestivo, Lic. Genaro Rivera Hunter and Lic. Mario Torres, which is in the file of the petition of generic *habeas corpus* filed with the Civil and Commercial Law Court of First Instance, Ninth Rotation, on behalf of the juveniles in the 'Col. Panchito López' Juvenile Reeducation Institute (file of appendixes to the written brief of pleadings and motions, appendix 1D, volume II, folios 379-380 and 382); questions that Ms. Viviana Krsticevic, Executive Director of CEJIL, asked of young Raúl Esteban Portillo, and his answers to them, which appear in a document dated March 25, 2004 (file of written statements supplied by the State, the Inter-American Commission and the alleged victims' representatives, representatives' appendix, folio 273).

[98] *Cf.* Report of the Coordinator of Human Rights of Paraguay (CODEHUPY), "Human Rights in Paraguay, 1996" (file of appendixes to the application, appendix 55, folio 648); July 17, 2001 letter from Mr. Eustacio Rodríguez Benítez to Dr. Silvio Ferreira, Minister of Justice and Labor (file of appendixes to the application, appendix 29, folio 422); results of the laboratory analysis done on the bodies of young Elvio Epifanio Acosta Ocampos and Sergio Daniel Vega Figueredo (file of appendixes to the application, appendix 32-B, folios 470-474); Record No. 14 of February 11, 2000, prepared by the DAEP Senior Chief Franco Ferreira Rodríguez, Head of the Legal Department, Asunción, Paraguay (file of appendixes to the application, appendix 33, folio 475); Record of February 18, 2000, concerning the statement made by Mr. Freddy Portillo before the Criminal Court of First Instance, Eighth Rotation (file of appendixes to the application, appendix 34, folio 477); Record of March 13, 2000, concerning the statement made by Mr. Jorge Melitón Bittar Cortessi before the Criminal Court of First Instance, Eighth Rotation (file of appendixes to the application, appendix 35, folio 479).

[99] *Cf.* document titled "Concluding Observations of the Committee on the Rights of the Child: Paraguay 06/11/2001" CRC/C/15/Add.166 (file of appendixes to the application, appendix 51, folios 601-613, esp. 612); complaint that "Defence of Children International" filed on March 20, 2000, with the Senate Human Rights Commission, published at http://www.diarioabc.com.py (file of appendixes to the application, appendix 53, folio 634); notes dated February 6 and 7, 2001, sent by nongovernmental organizations and public figures to the Ambassador of Paraguay in Washington, D.C., concerning human rights violations at the 'Panchito López' Center (file of appendixes to the written brief of pleadings and motions, appendix 16, volume I, folios 83-90); note of February 8, 2001, from the Ambassador of

134.27 On November 12, 1993, the Tekojojá Foundation filed a petition of generic *habeas corpus* to denounce the conditions at the Institute and to get the inmates relocated to adequate facilities.[101] The petition did not address any internment proceedings conducted in the case of these inmates.[102]

134.28 In Final Judgment No. 652, delivered on July 31, 1998, the Civil and Commercial Law Judge of First Instance, Ninth Rotation, granted the writ of generic *habeas corpus* filed by the Tekojojá Foundation on behalf of the inmates at the Center, and ordered the State to take the measures necessary to relocate the inmates to adequate facilities.[103] Despite the court order, the inmates on whose behalf the writ of *habeas corpus* was granted remained at the Center.[104]

1) The fire on February 11, 2000

Paraguay in Washington, D.C., to the Minister of Justice and Labor wherein he informs the Minister of the protest notes and claims of human rights violations in connection with the case of the 'Panchito López' Center (file of appendixes to the written brief of pleadings and motions, appendix 17, volume I, folio 92); testimony given by Ms. María Elizabeth Flores Negri at the Office of the Chief Government Notary of the Republic of Paraguay, March 24, 2004 (file of written statements supplied by the State, the Inter-American Commission and the alleged victims' representatives, State's appendix, folio 115); testimony given by Mr. Fernando Vicente Canillas Vera at the Office of the Chief Government Notary of the Republic of Paraguay, March 22, 2004 (file of written statements supplied by the State, the Inter-American Commission and the alleged victims' representatives, State's appendix, folio 6); testimony given by Ms. Ana María De Jesús Llanes Ferreira at the Office of the Chief Government Notary of the Republic of Paraguay, March 23, 2004 (file of written statements supplied by the State, the Inter-American Commission and the alleged victims' representatives, State's appendix, folio 89); March 9, 2001 report titled "Third Report on the Situation of Human Rights in Paraguay", prepared by the Inter-American Commission on Human Rights (file of appendixes to the application, appendix 24, folios 807 and 808); note dated July 26, 2001, from Ms. Gloria Elizabeth Ramírez, criminal prosecutorial agent for juvenile offenders, to the deputy prosecutor, Dr. Diosnel Cansio Rodríguez, with regard to the July 26, 2001 fire and the complaints received by the Specialized Unit for Juvenile Offenders in connection with the constant threat of the outbreak of riots at the Center (file of appendixes to the brief of preliminary objections, answer to the application and observations on the pleadings and motions, appendix 24, volume III, folio 900).

[100] *Cf.* testimony given by Ms. María Elizabeth Flores Negri at the Office of the Chief Government Notary of the Republic of Paraguay, March 24, 2004 (file of written statements supplied by the State, the Inter-American Commission and the alleged victims' representatives, State's appendix, folio 116).

[101] *Cf.* Brief filing the petition of generic *habeas corpus*, dated November 12, 1993 (file of appendixes to the application, appendix 52, folios 614-633 and file of appendixes to the written brief of pleadings and motions, appendix 39, volume I, folio 240); Report of the Coordinator of Human Rights of Paraguay (CODEHUPY), "Human Rights in Paraguay, 1996" (file of appendixes to the application, appendix 55, volume I, folio 649); Judgment of the Civil and Commercial Law Court of First Instance, Ninth Rotation, Final Decision No. 652, July 31, 1998 (file of appendixes to the application, appendix 20, folios 289 *et seq.*).

[102] *Cf.* Brief filing the petition of generic *habeas corpus,* dated November 12, 1993 (file of appendixes to the application, appendix 52, folios 614-633 and file of appendixes to the written brief of pleadings and motions, appendix 39, volume I, folio 240).

[103] *Cf.* Judgment of the Civil and Commercial Law Court of First Instance, Ninth Rotation, Final Decision No. 652, July 31, 1998 (file of appendixes to the application, appendix 20, folio 320); brief filing the petition of generic *habeas corpus,* November 12, 1993 (file of appendixes to the application, appendix 52, folios 614-633).

[104] Uncontested fact.

134.29 A fire at the Center on February 11, 2000[105] left nine inmates dead: Elvio Epifanio Acosta Ocampos, Marco Antonio Jiménez, Diego Walter Valdez, Sergio Daniel Vega Figueredo, Sergio David Poletti Domínguez, Mario del Pilar Álvarez Pérez, Juan Alcides Román Barrios, Antonio Damián Escobar Morinigo and Carlos Raúl de la Cruz[106].

134.30 The following inmates sustained injuries or burns during that same fire: Abel Achar Acuña, José Milciades Cañete Chamorro, Ever Ramón Molinas Zárate, Arsenio Joel Barrios Báez, Alfredo Duarte Ramos, Sergio Vincent Navarro Moraez, Raúl Esteban Portillo, Ismael Méndez Aranda, Pedro Iván Peña, Osvaldo Daniel Sosa, Walter Javier Riveros Rojas, Osmar López Verón, Miguel Ángel Coronel Ramírez, César Fidelino Ojeda Acevedo, Heriberto Zarate, Francisco Noé Andrada, Jorge Daniel Toledo, Pablo Emmanuel Rojas, Franco Sixto González, Francisco Ramón Adorno, Antonio Delgado, Carlos Román Feris Almirón, Pablo Ayala Azola, Juan Ramón Lugo and Rolando Benítez.[107]

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[105] *Cf.* February 14, 2000 report sent by staff of the Judicial Investigation Center to Mr. Fabio Martínez Coronel, Chief of the Judicial Investigation Center, in connection with the investigation into the February 11, 2000 fire (file of appendixes to the application, appendix 47, folio 556); February 16, 2000 crime laboratory report sent by the Criminal Investigation Department of the Paraguayan National Police to Police Chief Nestro Vera Planas, Chief of the Criminology Division (file of appendixes to the application, appendix 47, folios 562-566);

[106] *Cf*. List of death certificates and of certificates of medical diagnosis (file of appendixes to the application, appendix 3, folios 101-111); Record No. 14 of February 11, 2000, prepared by DAEP Senior Police Chief Mr. Franco Ferreira Rodríguez, Head of the Judicial Investigation Department, Asunción, Paraguay (file of appendixes to the application, appendix 33, folio 475); Record of February 18, 2000, concerning the statement made by Mr. Freddy Portillo before the Criminal Court of First Instance, Eighth Rotation (file of appendixes to the application, appendix 34, folio 477); Record of March 13, 2000, concerning the statement given by Mr. Jorge Melitón Bittar Cortessi before the Criminal Court of First Instance, Eighth Rotation (file of appendixes to the application, appendix 35, folio 479); February 14, 2000 report sent by staff of the Judicial Investigation Center to Mr. Fabio Martínez Coronel, Chief of the Judicial Investigation Center, in connection with the investigation into the February 11, 2000 fire (file of appendixes to the application, appendix 47, folio 556); February 16, 2000 crime laboratory report sent by the Criminal Investigation Department of the Paraguayan National Police to Police Chief Nestro Vera Planas, Chief of the Criminology Division (file of appendixes to the application, appendix 47, folios 562-566); medical certificates, dated April 11, 2000, prepared by Dr. Miguel Angel Insaurralde, Director of the National Burns Center (file of appendixes to the application, appendix 47, folios 567-591); case file No. 383 from 2000, titled "Preliminary inquiry into alleged punishable crimes (intentional homicide and grievous bodily harm) - Panchito López," heard by the Criminal Court of First Instance, Eighth Rotation (file of appendixes to the brief of preliminary objections, answer to the application and observations on the pleadings and motions, appendix 18, volume I, folios 340 *et seq.*).

[107] *Cf.* List of death certificates and of certificates of medical diagnosis (file of appendixes to the application, appendix 3, folios 101-111); Record No. 14 of February 11, 2000, prepared by the DAEP Senior Chief Franco Ferreira Rodríguez, Head of the Judicial Investigation Department, Asunción, Paraguay (file of appendixes to the application, appendix 33, folio 475); Record of February 18, 2000, concerning the statement made by Mr. Freddy Portillo before the Criminal Court of First Instance, Eighth Rotation (file of appendixes to the application, appendix 34, folio 477); Record of March 13, 2000 concerning the statement given by Mr. Jorge Melitón Bittar Cortessi before the Criminal Court of First Instance, Eighth Rotation (file of appendixes to the application, appendix 35, folio 470); February 14, 2000 report sent by staff of the Judicial Investigation Center to Mr. Fabio Martínez Coronel, Chief of the Judicial Investigation Center, in connection with the investigation into the February 11, 2000 fire (file of appendixes to the application, appendix 47, folio 556); February 16, 2000 crime laboratory report sent by the Criminal Investigation Department of the Paraguayan National Police to Police Chief Nestro Vera Planas, Chief of the Criminology Division (file of appendixes to the application, appendix 47, folios 562-566); medical certificates, dated April 11, 2000, prepared by Dr. Miguel Angel Insaurralde, Director of the National Burns Center (file of appendixes to the application, appendix 47, folios 567-591); case file No. 383 from 2000, titled "Preliminary inquiry into alleged punishable crimes (intentional homicide and grievous bodily harm) - Panchito López," heard by the Criminal Court of First Instance, Eighth Rotation (file of appendixes to the

134.31 Those injured in that fire were taken to emergency treatment centers.[108]

134.32 Well before the February 11, 2000, the Center was grossly unprepared to respond to a fire, even though inmates frequently lit fires in the cellblocks to warm their food or to tattoo themselves.[109] To begin with, there was no apparatus or fire extinguisher near the cellblocks at the Center.[110] And despite the crisis situation, the Center's administrative authorities failed to provide the guards with any kind of instruction.[111]

2) The fire on February 5, 2001

134.33 The Center had another fire on February 5, 2001[112] that left the following nine inmates injured or burned: Claudio Coronel Quiroga, Clemente Luis Escobar González, Julio César García, José Amado Jara Fernández, Alberto David Martínez, Miguel Ángel Martínez, Osvaldo Mora Espinola, Hugo Antonio Vera Quintana and Juan Carlos Zarza Viveros.[113]

3) The fire on July 25, 2001, and the closing of the 'Panchito López' Juvenile Reeducation Institute

134.34 The Center had another fire on July 25, 2001. The chain of events began when a riot broke out when one inmate, Benito Augusto Adorno, was shot and wounded by a member of the Center's staff. The conduct of Benito Augusto Adorno

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brief of preliminary objections, answer to the application and observations on the pleadings and motions, appendix 18, volume I, folios 340 *et seq.*).

[108] *Cf.* Report on the February 11, 2000 fire, prepared by the Office of the Director General of Human Rights of the Ministry of Justice and Labor (file of appendixes to the application, appendix 2, folio 78).

[109] *Cf.* Expert report on the February 11, 2000 fire, done by expert Rubén Valdez, designated by the Fourth Criminal Trial and Sentencing Court of First Instance, as part of the investigation in the "Preliminary inquiry into allegations of intentional homicide and grievous bodily harm at the Panchito López Center" (file of appendixes to the application, appendix 32-a, folio 452); Case File No. 383 from 2000, titled "Preliminary inquiry into alleged punishable crimes (intentional homicide and grievous bodily harm) - Panchito López," prepared by the Criminal Court of First Instance, Eighth Rotation (file of appendixes to the brief of preliminary objections, answer to the application and observations on the pleadings and motions, appendix 18, volume I, folio 415); testimony given by Mr. Walter Abel Mererles Congo in Case No. 383 of 2000 titled "Preliminary inquiry into alleged punishable offenses (intentional homicide and grievous bodily injury– Panchito López," heard by the Criminal Court of First Instance, Eighth Rotation (file of appendixes to the application, appendix 43, folio 537).

[110] *Cf.* Record of February 18, 2000, concerning the statement made by Mr. Freddy Portillo before the Criminal Court of First Instance, Eighth Rotation (file of appendixes to the application, appendix 34, folio 478).

[111] *Cf.* Record of February 18, 2000, concerning the statement made by Mr. Freddy Portillo before the Criminal Court of First Instance, Eighth Rotation (file of appendixes to the application, appendix 34, folio 478).

[112] *Cf.* Report issued by the Volunteer Fire Brigade of Paraguay, General Headquarters, concerning the February 5, 2001 fire (file of appendixes to the brief of preliminary exceptions, answer to the brief and observations on the pleadings and motions, appendix 9, folio 132)

[113] *Cf.* List of inmates burned and hospitalized on February 5, 2001 (file of appendixes to the brief of pleadings and motions, appendix 15, volume I, folio 82).

and the shot fired at him as a result, triggered a disturbance involving a number of inmates, who set the fire in the Center.[114]

134.35 Young Benito Augusto Adorno died on August 6, 2001.[115]

134.36 The fire left the following eight inmates either burned or injured: Eduardo Vera, Cándido Ulises Zelaya Flores, Hugo Olmedo, Oscar Rafael Aquino Acuña, Nelson Rodríguez, Demetrio Silguero, Carlos Raúl Romero Giacomo and Aristides Ramón Ortiz Bernal[116].

134.37 In official communications addressed to their superiors in the weeks leading up to the fire, a number of staff members and guards had warned that tensions at the Center were running very high and the situation was extremely dangerous.[117]

134.38 After the July 25, 2001 fire, the State shut down the Center once and for all.[118]

Assistance provided by the State after the fires

134.39 The State covered various expenses occasioned by the deaths of some inmates and injuries to others, such as a certain amount for medical and

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[114] *Cf.* Report on the July 25, 2001 riot, which the Acting Chief of Guards, Mr. Sergio Hermosilla, sent to the Center's Chief of Security (file of appendixes to the application, appendix 36, folio 481); report on the fire that occurred at the Institute on Wednesday, July 25, 2001 (file of appendixes to the application, appendix 39, folio 495); document titled "Adolescents deprived of liberty: some thoughts. Measures proposed by the Deputy Minister of Justice, Fernando Vicente Canillas Vera. July 30, 2001" (file of appendixes to the application, appendix 26, folio 405); report on the July 25, 2001 riot, which the Acting Chief of Guards, Mr. Sergio Hermosilla, sent to the Center's Chief of Security (file of appendixes to the application, appendix 36, folio 481); report on the fire at the Center on Wednesday, July 25, 2001 (file of appendixes to the application, appendix 39, folio 495); report by the Volunteer Fire Brigade of Paraguay, General Headquarters, on the July 25, 2001 fire (file of appendixes to the brief of preliminary objections, answer to the application and observations on the pleadings and motions, appendix 9, volume I, folio 133); and prosecution case file No. 9199, titled "inmate riot" on July 25, 2001 (file of appendixes to the brief of preliminary objections, answer to the application and observations on the pleadings and motions, appendix 24, volume III, folio 876).

[115] *Cf.* Death certificate of young Benito Augusto Adorno (file of appendixes to the application, appendix 6, folio 142); and file of appendixes to the written brief of pleadings and motions, appendix 31, volume I, folio 198).

[116] *Cf.* Note dated July 26, 2001, from DEJAP Police Chief Fermín Valenzuela Bado, to the criminal prosecutorial agent on duty (file of appendixes to the application, appendix 27, folio 483); file of the fire of the 27th (*sic*) of July 2001, Office of the Juvenile Criminal Prosecutor (file of appendixes to the written brief of pleadings and motions, appendix 31, volume I, folios 125 and 127).

[117] *Cf.* note dated June 18, 2001, from Father Michael Sean O'Loingsigh, Deputy Director of the 'Panchito López' Center, to Mr. Eustacio Rodríguez Benitez, Director of the Center (file of appendixes to the application, appendix 23, folio 395); July 16, 2001 note from Father Michael Sean O'Loingsigh to Mr. Eustacio Rodríguez, Director of the Center (file of appendixes to the application, appendix 28, folio 417); and July 17, 2001 letter that staff of the Center sent to Mr. Eustacio Rodríguez, Director of the Center (file of appendixes to the application, appendix 29, folio 423).

[118] *Cf.* The State's April 26, 2002 communication to the Inter-American Commission (file of appendixes to the application, appendix 4, folio 114); and document titled "Adolescents deprived of liberty: some thoughts. Measures proposed by the Deputy Minister of Justice, Fernando Vicente Canillas Vera. July 30, 2001" (file of appendixes to the application, appendix 26, folio 400).

psychological care[119] and funeral expenses.[120] But these measures did not help everyone affected. Some families of the alleged victims also had to provide them with medications and pay funeral expenses.[121]

The transfers of inmates from the Center

134.40 After the February 11, 2000 fire, 40 inmates from the Center were transferred to the Itauguá Comprehensive Education Center (hereinafter "CEI Itauguá"), an institution for children designed by the State in partnership with nongovernmental organizations and located in the city of Itauguá.[122] CEI Itauguá was officially opened in May 2001. Another group of inmates was sent to the Emboscada Regional Penitentiary, an adult penal institution.[123] The other inmates remained at the Center.[124]

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[119] *Cf.* testimony given by Mr. Fernando Vicente Canillas Vera at the Office of the Chief Government Notary of the Republic of Paraguay, March 22, 2004 (file of written statements supplied by the State, the Inter-American Commission and the alleged victims' representatives, State's appendix, folio 5); testimony given by Ms. Teresa de Jesús Almirón Fernández at the Office of the Chief Government Notary of the Republic of Paraguay, March 30, 2004 (file of written statements supplied by the State, the Inter-American Commission and the alleged victims' representatives, State's appendix, folio 26); copy of the report on the February 11, 2000 fire prepared by the Office of the Director General of Human Rights of the Ministry of Justice and Labor (file of appendixes to the application, appendix 2, folio 78); August 29, 2002 report prepared by the Director of the National Burns Center, in reply to Note NSSEJ No. 374 from the Deputy Minister of Justice (file of appendixes to the brief of preliminary objections, answer to the application and observations on the pleadings and motions, appendix 32, volume III, folios 1229-1232); testimony of Teofista Domínguez, mother of a deceased former inmate at the Center, given before the Court on May 3, 2004; testimony given by María Teresa de Jesús Pérez in the presence of a person with legal authority to authenticate documents, March 30, 2004 (file of written statements supplied by the State, the Inter-American Commission and the alleged victims' representatives, representatives' appendix, folio 252).

[120] *Cf.* Testimony of Fernando Vicente Canillas Vera given at the Office of the Chief Government Notary of the Republic of Paraguay, March 22, 2004 (file of written statements supplied by the State, the Inter-American Commission and the alleged victims' representatives, State's appendix, folio 5); testimony given by Ms. Teresa de Jesús Almirón Fernández at the Office of the Chief Government Notary of the Republic of Paraguay, March 30, 2004 (file of written statements supplied by the State, the Inter-American Commission and the alleged victims' representatives, State's appendix, folio 27); testimony given by Mr. Dionisio Vega before the Inter-American Court of Human Rights at the public hearing held on May 3, 2004; testimony given by Mrs. Teofista Domínguez before the Inter-American Court of Human Rights at the public hearing held on May 3, 2004.

[121] *Cf.* Testimony given by Ms. María Teresa de Jesús Pérez in the presence of a person with legal authority to authenticate documents, March 30, 2004 (file of written statements supplied by the State, the Inter-American Commission and the alleged victims' representatives, representatives' appendix, folio 252); testimony given by Ms. Teofista Domínguez before the Inter-American Court of Human Rights at the public hearing held on May 3, 2004; and testimony given by young Francisco Ramón Adorno in the presence of a person with legal authority to authenticate documents, March 26, 2004 (file of written statements supplied by the State, the Inter-American Commission and the alleged victims' representatives, Commission's appendix, folio 185).

[122] *Cf.* April 26, 2002 communication from the State to the Inter-American Commission (file of appendixes to the application, appendix 4, folio 114); March 2002 report that the Ministry of Justice sent to the Inter-American Commission concerning the measures the State had taken to comply with the recommendations made by the Inter-American Commission on Human Rights in its "Third Report on the Situation of Human Rights in Paraguay" (file of appendixes to the brief of preliminary objections, answer to the application and observations on the pleadings and motions, appendix 11, volume I, folio 244).

[123] *Cf.* Amnesty International article titled: "Panchito López Juvenile Detention Centre: An opportunity for the Government of Paraguay to meet its promises" AI Index: AMR 45/004/2001, April 2001 (file of appendixes to the application, appendix 21, folio 330).

[124] *Cf.* report on the February 11, 2001 fire, prepared by the Office of the Director General of Human Rights of the Ministry of Justice and Labor (file of appendixes to the application, appendix 2, folio 85).

134.41 Later, sporadic transfers of inmates to the CEI Itauguá started in mid 2000.[125]

134.42 After the July 25, 2001 fire, there was a massive and immediate transfer of inmates from the Center to the CEI Itauguá and to the Emboscada Regional Penitentiary. There were also smaller-scale transfers to other regional adult penal institutions in the country.[126]

134.43 Some children transferred from the Center to Emboscada on July 25, 2001, complained of having been beaten by the guards during transit.[127]

Children living side-by-side with adults in some prisons

134.44 After the Center's closing many children were transferred to other prisons (*supra* paragraphs 134.42 and 134.43) where, in some cases, they shared physical space with adult inmates, such as bathrooms, the dining hall, and the prison yard, since these institutions did not have separate infrastructure for juveniles.[128] Moreover, the directors of those penal institutions sometimes assigned one or two

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[125] *Cf.* note dated June 18, 2001, from Father Michael Sean O'Loingsigh, Deputy Director of the 'Panchito López' Center, to Mr. Eustacio Rodríguez Benitez, Director of the Center (file of appendixes to the application, appendix 23, folio 395); plan for transfers from the 'Panchito López' Center to the Itauguá Education Center (file of appendixes to the written brief of pleadings and motions, appendix 36, volume I, folio 236).

[126] *Cf.* Note dated July 26, 2001, from the Chief of the Fourth Metropolitan Police Precinct to the Criminal Prosecutor on duty at the Public Ministry concerning the July 25, 2001 fire (file of appendixes to the written brief of pleadings and motions, appendix 31, volume I, folio 127); the State's April 26, 2002 communication to the Inter-American Commission (file of appendixes to the application, appendix 4, folio 114); testimony given by Ms. Ana María de Jesús Llanes Ferreira at the Office of the Chief Government Notary of the Republic of Paraguay, March 23, 2004 (file of written statements supplied by the State, the Inter-American Commission and the alleged victims' representatives, State's appendix, folio 86); document titled "Adolescents deprived of liberty: some thoughts. Measures proposed by the Vice Minister of Justice, Fernando Vicente Canillas Vera. July 30, 2001" (file of appendixes to the application, appendix 26, folio 400); note dated September 17, 2001, from the Office of the Director General of Human Rights of Paraguay to the Deputy Minister of Justice (file of appendixes to the application, appendix 30, folio 428); Note dated July 26, 2001, from DEJAP Police Chief Fermín Valenzuela Bado, to the criminal prosecutorial agent on duty (file of appendixes to the application, appendix 27, folio 483); report on the fire at the Center on Wednesday, July 25, 2001 (file of appendixes to the application, appendix 39, folios 496-497); August 15, 2001 report sent by an unidentified commission to the Ministry of Justice and Labor, concerning visits to the Villarrica and Coronel Oviedo prisons (file of appendixes to the application, appendix 45, folio 544); March 2002 report that the Ministry of Justice sent to the Inter-American Commission concerning measures taken to comply with the recommendations made by the Inter-American Commission on Human Rights in its "Third Report on the Situation of Human Rights in Paraguay" (file of appendixes to the brief of preliminary objections, answer to the application and observations on the pleadings and motions, appendix 11, volume I, folios 243 et seq.); document titled "Case file No. 9199, titled "Inmate Riot" on July 25, 2001 (file of appendixes to the application, appendix 24, folio 976).

[127] *Cf.* August 2, 2001 note from the Public Ministry to the Attorney General of the State (file of appendixes to the application, appendix 44, folios 539-543 and file of appendixes to the written brief of pleadings and motions, appendix 31, volume I, folio 190).

[128] *Cf.* Note dated September 17, 2001, from the Office of the Director General of Human Rights of Paraguay to the Deputy Minister of Justice (file of appendixes to the application, appendix 30, folio 428); testimony given by Ms. Ana María de Jesús Llanes Ferreira at the Office of the Chief Government Notary of the Republic of Paraguay, March 23, 2004 (file of written statements supplied by the State, the Inter-American Commission and the alleged victims' representatives, State's appendix, folios 88-89); August 15, 2001 report sent by an unidentified commission to the Ministry of Justice and Labor concerning visits to the Villarrica and Coronel Oviedo prisons (file of appendixes to the application, appendix 45, folio 544).

adult prisoner trustees "of proven good conduct" to serve as guards over a given number of children, to avoid any fighting among them or abuse by other adult prisoners.[129]

134.45 At the Emboscada Regional Penitentiary, the children were in two cellblocks: one in which they were segregated from adults and another that housed adults and children alike.[130]

The deaths of two children[131] *at the Emboscada Regional Penitentiary*

134.46 On September 10, 2001, Richard Daniel Martínez, age 18, died from a wound inflicted by a bladed weapon in the juvenile cellblock at the Emboscada Regional Penitentiary.[132] He was sent to the local health center, where he was declared dead.[133]

134.47 On March 14, 2002, Héctor Ramón Vázquez, age 17, was also stabbed at the Emboscada Regional Penitentiary.[134] He was sent to the Emergency Medical Hospital and died on March 15, 2002.[135] Both of the deceased had been transferred from the Panchito López Center.[136]

The suffering of the inmates at the Center and the suffering of their next of kin

134.48 The conditions under which inmates at the Center between August 14, 1996 and July 25, 2001 had to live not only demoralized them but also had both

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[129] *Cf.* Note dated September 17, 2001, from the Office of the Director General of Human Rights of Paraguay to the Deputy Minister of Justice (file of appendixes to the application, appendix 30, folio 428); report of the Director of the Emboscada Regional Prison, January 12, 2001 (file of appendixes to the application, appendix 13, folio 60).

[130] *Cf.* Note dated September 17, 2001, from the Office of the Director General of Human Rights of Paraguay to the Deputy Minister of Justice (file of appendixes to the application, appendix 30, folio 428); communication from the State, dated April 26, 2002, addressed to the Inter-American Commission (file of appendixes to the application, appendix 4, folio 115); report on the fire that occurred at the Institute on Wednesday, July 25, 2001 (file of appendixes to the application, appendix 39, folios 496-497).

[131] The law then in force provided that the age of majority was 20 years old (*infra* para. 134.58).

[132] *Cf.* September 10, 2001 report issued by the director of the juvenile correctional facility at the Emboscada regional prison, concerning the events that resulted in the death of Richard Daniel Martínez at the Emboscada Regional Penitentiary (file of appendixes to the brief of preliminary objections, answer to the application and observations on the pleadings and motions, appendix 33, folio 1234).

[133] *Supra* note 132.

[134] *Cf.* March 15, 2002 report from the director of the juvenile area of the Emboscada regional prison concerning incidents that led to the death of Héctor Ramón Vázquez at Emboscada Regional Penitentiary (file of appendixes to the brief of preliminary objections, answer to the application and observations on the pleadings and motions, appendix 33, folio 1235).

[135] *Cf.* March 15, 2002 report from the director of the juvenile area of the Emboscada regional prison concerning incidents that led to the death of Héctor Ramón Vázquez at Emboscada Regional Penitentiary (file of appendixes to the brief of preliminary objections, answer to the application and observations on the pleadings and motions, appendix 33, folio 1235); press clipping from (apparently) October 2001, titled "Former Panchito inmate killed yesterday at Emboscada" (file of appendixes to the application, appendix 42, folio 524).

[136] *Cf.* Combined list of alleged victims, which the Commission sent to the Court on July 8, 2002 (file on the merits, volume I, folio 228). Uncontested fact.

physical and psychological after-effects.[137] The psychological after-effects include, *inter alia,* anxiety, aggressiveness, despair, frequent bouts of depression, a feeling of disgrace, stigmatization, lower self-esteem, forgetfulness and insomnia.[138]

134.49 The next of kin of the deceased and injured inmates have also suffered psychological and emotional effects as a result of the deaths of the inmates and/or the injuries they sustained.[139]

Domestic judicial proceedings

134.50 A petition of generic *habeas corpus* was filed in the domestic courts (*supra* paragraphs 134.27 and 134.28), and two civil and criminal cases.

1) The civil actions

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[137] *Cf.* Expert opinion given by Ms. Ana Deutsch before the Inter-American Court of Human Rights at the public hearing held on May 3, 2004.

[138] *Cf.* Testimony given by young Hugo Antonio Vera Quintana in the presence of a person with legal authority to authenticate documents, March 25, 2004 (file of written statements supplied by the State, the Inter-American Commission and the alleged victims' representatives, representatives' appendix, folio 244); testimony given by young Arsenio Joel Barrios Báez in the presence of a person with legal authority to authenticate documents, March 25, 2004 (file of written statements supplied by the State, the Inter-American Commission and the alleged victims' representatives, representatives' appendix, folio 243); testimony given by young Osmar López Verón in the presence of a person with legal authority to authenticate documents, March 26, 2004 (file of written statements supplied by the State, the Inter-American Commission and the alleged victims' representatives, Commission's appendix, folio 188); questions that Ms. Viviana Krsticevic, Executive Director of CEJIL, asked of young Pedro Iván Peña, and his answers to those questions, which appear in a document dated March 26, 2004 (file of written statements supplied by the State, the Inter-American Commission and the alleged victims' representatives, representatives' appendix, folio 270); testimony given by Ms. Dirma Monserrat Peña in the presence of a person with legal authority to authenticate documents, March 30, 2004 (file of written statements supplied by the State, the Inter-American Commission and the alleged victims' representatives, representatives' appendix, folio 228); testimony given by young Francisco Ramón Adorno in the presence of a person with legal authority to authenticate documents, March 26, 2004 (file of written statements supplied by the State, the Inter-American Commission and the alleged victims' representatives, Commission's appendix, folio 183); expert opinion given by Ms. Ana Deutsch before the Inter-American Court of Human Rights at the public hearing held on May 3, 2004; expert opinion given by Mr. Carlos Arestivo in the presence of a person with legal authority to authenticate documents, March 25, 2004 (file of written statements supplied by the State, the Inter-American Commission and the alleged victims' representatives, Commission's appendix, folio 212); testimony given by young Clemente Luis Escobar González in the presence of a person with legal authority to authenticate documents, March 30, 2004 (file of written statements supplied by the State, the Inter-American Commission and the alleged victims' representatives , representatives' appendix, folio 235).

[139] *Cf.* Testimony given by Ms. Rosalía Figueredo before the Inter-American Court of Human Rights at the public hearing held on May 3, 2004; testimony given by Mr. Dionisio Vega before the Inter-American Court of Human Rights at the public hearing held on May 3, 2004; testimony given by Ms. Teofista Domínguez before the Inter-American Court of Human Rights at the public hearing held on May 3, 2004; testimony given by Ms. Felipa Benicia Valdez before the Inter-American Court of Human Rights at the public hearing held on May 3, 2004; testimony given by Ms. Dirma Monserrat Peña in the presence of a person with legal authority to authenticate documents, March 30, 2004 (file of written statements supplied by the State, the Inter-American Commission and the alleged victims' representatives, representatives' appendix, folios 231-232); testimony given by Ms. María Teresa de Jesús Pérez in the presence of a person with legal authority to authenticate documents, March 30, 2004 (file of written statements supplied by the State, the Inter-American Commission and the alleged victims' representatives, representatives' appendix, folio 253); and questions that Ms. Viviana Krsticevic, Executive Director of CEJIL, asked of young Raúl Esteban Portillo and his answers to those questions, which appear in a document dated March 25, 2004 (file of written statements supplied by the State, the Inter-American Commission and the alleged victims' representatives, representatives' appendix, folio 285).

134.51 In November 2000, the next of kin of Sergio David Poletti Domínguez, who died in the February 11, 2000 fire, filed civil suit against the State in the Civil and Commercial Law Court for the Asunción Judicial Circuit, claiming damages and injuries.[140]

134.52 On January 7, 2002, the next of kin of Diego Walter Valdez, Carlos Raúl de la Cruz and Sergio Daniel Vega Figueredo, who died in the February 11, 2000 fire, filed a civil suit against the State, also in the Civil and Commercial Law Court of the Asunción Judicial Circuit. They, too, were claiming damages and injuries.[141]

134.53 Proceedings in the two civil suits are still in their initial stage.[142]

2) The criminal cases

134.54 In February 2000, the Criminal Court of First Instance conducted a preliminary inquiry into allegations of a crime against life (intentional homicide) and the integrity of one's person (grievous bodily injury), to establish who was to blame for what transpired in the events associated with the February 11, 2000 fire (*supra* para. 134.29).[143] On March 8, 2002, the judge hearing the case, Carlos Ortiz Barrios, ordered the case closed pursuant to Article 7 of Law 1444/99, which provides that "[i]n proceedings involving unnamed defendants, the Court shall order the case closed if, within six months' time, the Public Ministry or the parties have not filed motions or taken other appropriate measures to have the case continued [...]"[144].

134.55 After the third fire (*supra* para. 134.34), case No. 9199 was instituted in the Public Ministry to investigate the events associated with the fire and the

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[140] *Cf.* File of "Teofista Domínguez *et al. v.* Paraguayan State concerning Compensation for Damages and Injuries. Civil and Commercial Law Court, Sixth Rotation" (file of appendixes to the brief of preliminary objections, answer to the application and observations on the pleadings and motions, appendix 20, volume II, folios 682-849, esp. 691); testimony given by Mrs. Teofista Domínguez before the Inter-American Court of Human Rights at the public hearing held on May 3, 2004.

[141] *Cf.* File of "Felipa Benicia Valdéz *et al. v.* Paraguayan State concerning Compensation for Damages and Injuries. Civil and Commercial Law Court, First Rotation" (file of appendixes to the brief of preliminary objections, answer to the application and observations on the pleadings and motions, appendix 19, volume II, folios 538-681, especially 564).

[142] *Cf.* File of "Teofista Domínguez *et al. v.* Paraguayan State concerning Compensation for Damages and Injuries. Civil and Commercial Law Court, Sixth Rotation" (file of appendixes to the brief of preliminary objections, answer to the application and observations on the pleadings and motions, appendix 20, volume II, folios 682-849); file of "Felipa Benicia Valdéz *et al. v.* Paraguayan State concerning Compensation for Damages and Injuries. Civil and Commercial Law Court, First Rotation" (file of appendixes to the brief of preliminary objections, answer to the application and observations on the pleadings and motions, appendix 19, volume II, folios 538-681); and court document supplied by Teofista Domínguez on May 3, 2004, during her testimony at the public hearing before the Inter-American Court of Human Rights (file on the merits, volume VII, folio 2085).

[143] *Cf.* February 11, 2000 preliminary inquiry into alleged punishable crimes (intentional homicide and grievous bodily harm) at the Panchito López Center" (file of appendixes to the brief of preliminary objections, answer to the application and observations on the pleadings and motions, appendix 18, volume I, folio 341).

[144] *Cf.* March 8, 2002 ruling in the preliminary hearing into alleged punishable crimes (intentional homicide and grievous bodily harm) at the 'Panchito López' Center (file of appendixes to the brief of preliminary objections, answer to the application and observations on the pleadings and motions, appendix 18, volume II, folio 531).

circumstances of the death of Benito Augusto Adorno, who died from a bullet wound on August 6, 2001 (*supra* para. 134.35).[145]

134.56 In the case of the death of young Benito Augusto Adorno (*supra* para. 134.35), a judicial inquiry was launched in which guard Francisco Javier González Orué was blamed for the youth's death. On August 12, 2002, a criminal court judge cleared the guard of any blame on the grounds that it had not been proved that the bullet that killed young Benito Augusto Adorno came from Mr. González Orué's weapon.[146]

The reforms introduced by the State

134.57 The State has introduced a number of legislative, administrative and infrastructural changes with regard to children in conflict with the law in Paraguay (*infra* para. 214). Prominent among these are the establishment of a new Code of Criminal Procedure, Policy Decision No. 214 regulating the functions of the Juvenile Trial and Sentencing Courts, a Child and Adolescent Code, and the creation of alternative centers for children in conflict with the law.[147]

134.58 In June 2003, the State made 18 the age of majority, thereby amending the law that had been in force at the time of the events in this case and under which 20 was the age of majority.[148]

Representation of the alleged victims and their next of kin in proceedings before the inter-American system for the protection of human rights and expenses associated with that representation

134.59 In the domestic proceedings and in the proceedings before the Inter-American Commission, the alleged victims and their next of kin were represented by the Tekojojá Foundation; in the proceedings before the Commission and the Court, they were also represented by the Center for Justice and International Law.

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[145] *Cf.* Prosecution case file No. 9199, titled "Inmate Riot" on July 25, 2001 (file of appendixes to the brief of preliminary objections, answer to the application and observations on the pleadings and motions, appendix 24, volume III, folios 873-978); testimony given by Messrs. Walter Abel Mererles Congo, Javier González Orué, Olivero Olmedo Osorio and Pedro Ganoso Silva at the Public Ministry (file of appendixes to the application, appendix 16, folios 250-251).

[146] *Cf.* Court case file No. 11212001 9859 Francisco Javier González Orué, manslaughter. (file of appendixes to the brief of preliminary objections, answer to the application and observations on the pleadings and motions, appendix 10, volume I, folios 135-226, especially folio 225).

[147] *Cf.* May 10, 2001 Decision No. 25, in which Lic. Ana María Guerra de Casaccia, Director of Youth and Adult Education, authorizes "the opening and operation of the Itauguá Education Center M/77 in Zone D, Central Department" (file of appendixes to the brief of preliminary objections, answer to the application and observations on the pleadings and motions, appendix 3, volume I, folio 58); March 2002 report that the Ministry of Justice sent to the Inter-American Commission concerning the measures taken by the State to comply with the recommendations made by the Inter-American Commission on Human Rights in its "Third Report on the Situation of Human Rights in Paraguay" (file of appendixes to the brief of preliminary objections, answer to the application and observations on the pleadings and motions, appendix 11, volume I, folio 227).

[148] Law No. 2169, June 27, 2003.

Therefore, those two organizations have incurred a number of expenses in their representations before the Commission and the Court.[149]

VIII

Violation of Articles 4 and 5 of the American Convention in relation to Articles 19 and 1(1) thereof (RIGHT TO LIFE AND RIGHT TO HUMANE TREATMENT)

Pleadings of the Commission

135. The Commission argued the following with reference to the violation of Article 19 of the American Convention, in relation to Article 1(1) thereof:

a) the State is responsible for violation of Article 19 of the Convention, in relation to Article 1(1) thereof, not only in the case of the alleged victims that it has expressly admitted to, but also in the case of all the children interned at the 'Panchito López' Center between August 14, 1996 and July 25, 2001, and those who were subsequently transferred to adult prisons;

b) Article 19 of the American Convention, taken in combination with the specific rules for the protection of children, such as the Convention on the Rights of the Child, spells out specific rules in the case of children, such as the principle that deprivation of liberty shall be reserved for exceptional cases;

c) the inmates at the Center were not treated in a manner commensurate with their dignity as individuals; the special rules governing deprivation of liberty in the case of children were not observed. The Commission alleged that the inmates were indiscriminately deprived of their liberty and endured subhuman conditions; their court cases were delayed, which meant that the vast majority of the inmates were languishing in prison awaiting trial, in preventive detention; they suffered through three fires in which ten inmates perished because proper safety measures were lacking; the inmates were then transferred to adult prisons, which constitutes a continuous violation of their human rights; adequate reparations have not been made as the State has not taken the measures necessary to correct the overcrowding, filth, poor diet, lack of qualified staff, unsatisfactory educational programs, and the practice of holding children and adolescents in preventive custody for longer than is reasonable;

d) the State failed to comply with its obligation under the Convention to provide special protection to the alleged victims; instead, the conditions at the Center also exposed the children and adolescents held there to greater danger, in direct violation of the mandate it is given under the Convention;

e) the State failed to guarantee the children's right to health, as it did not provide regular medical attention to the inmates; it did not have sufficient

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[149] *Cf.* Documents submitted to support the expenses CEJIL incurred (file on the merits, volume 8, folios 2296 to 2364); August 14, 1996 complaint that CEJIL and the Tekojojá Foundation filed (case before the Commission); and brief filing the petition of generic *habeas corpus* dated November 12, 1993 (file of appendixes to the application, appendix 52, folio 614, and file of appendixes to the written brief of pleadings and motions, appendix 39, volume I, folio 240).

medical staff to care for the children and did not provide proper medical care to those inmates with psychiatric disorders and addictions;

f) the State failed to guarantee the children's right to play and leisure, as the inmates were shut in for most of the day and were permitted to leave their cells for only around two hours every day;

g) confinement in small, overcrowded cells for 22 hours a day is a violation of Article 19 of the American Convention and of subparagraphs 1, 2 and 6 of Article 5 thereof; and

h) the State also failed to ensure the right to education, as the children never had a formal program of continuing formal education and the physical structure of the premises was not suitable for teaching. Subsequent to the fires, the State did very little to implement educational programs and provide space for the children to play; what little was done was in response to repeated requests from the Commission.

136. As for the violation of Article 4 of the American Convention, in relation to Article 1(1) thereof, the Commission asserted that:

a) both Articles impose upon the State the reasonable obligation to prevent violation of the rights to life of persons deprived of their liberty. This obligation is all the more compelling in cases where the alleged victims are children deprived of their freedom, as their situation is one of vulnerability and dependence upon the State;

b) the State failed to comply with its obligation to respect and ensure the right to life of the nine inmates who died in or as a result of fires at the Center, and the right to life of Benito Augusto Adorno, who was shot and died as a result;

c) two adolescents, Richard Daniel Martínez and Héctor Ramón Vázquez, died after being transferred to the Emboscada Regional Penitentiary for adults;

d) the unjustifiable absence of even the most rudimentary fire prevention and extinction devices and the authorities' disregard of the security staff's warnings about the imminent danger, meant that the victims' deaths were not fortuitous; instead, they were foreseeable and preventable; the State has incurred international responsibility because of this negligence; and

e) the State incurred international responsibility for violating the right to life because it did not take the necessary measures to prevent the fires or so that they would not be as disastrous as they were, quite apart from any intentional or criminal responsibility of the prison guards or certain inmates who may have started the first fire, which are questions the Paraguayan courts have to determine.

137. As for the violation of Article 5 of the American Convention, in relation to Article 1(1) thereof, the Commission asserted that:

a) the State has incurred international responsibility for violation of the right to humane treatment of the inmates burned or injured as a result of the three fires, of all the inmates incarcerated at the Center between August 14, 1996 and July 25, 2001, and those who were subsequently sent to adult prisons. Its international responsibility has been engaged by its failure to take the minimum and most elementary measures necessary to ensure the free and full exercise of that right to personal integrity and to prevent its violation;

b) the injured and burned inmates who survived the fires clearly sustained physical and emotional harm; the State is therefore responsible for violation of those former inmates' right to humane treatment; and

c) time and time again, the State transferred inmates from the Center to adult penal institutions, particularly after each fire, thereby placing these transferred children's personal safety at risk. That practice violated international standards on the treatment of children deprived of their liberty.

Pleadings of the representatives

138. Concerning the violation of Article 19 of the Convention, in relation to Article 1(1) thereof, the representatives argued that:

a) the State violated Article 19 to the detriment of the three thousand seven hundred forty-four children detained at the Center at one time or another in the period from August 14, 1996 to July 25, 2001, and those who were subsequently sent to adult prisons;

b) the children interned in the Center were in constant danger and at high risk on three counts: they were children, they were deprived of their liberty and, from the socioeconomic standpoint, they were all very poor;

c) the special measures of protection for children imply not only an obligation to respect their rights, but also to guarantee those rights and to take positive measures, informed by the principles of nondiscrimination and the best interests of the child, to ensure that the children are protected from any form of abuse, whether in their relations with the public authorities, in their inter-personal relations or their relations with non-State entities;

d) at the time of the events, not one of the alleged victims had reached the age of majority. Under the law in effect in Paraguay at that time, the age of majority was 20, not 18;

e) the State did not cultivate public policies for the comprehensive protection of the child: it never adapted its local laws and denied children certain benefits. The new Child and Adolescent Code took effect in 2001 and was randomly enforced. The legal counsel that the Public Ministry provided to the inmates at the Center was in general substandard;

f) the State did not devise a system for children in conflict with the law that was tailored to their status as children and that was commensurate with international principles of juvenile justice;

g) the State's acknowledgement of the alleged victims named in the Court's order of June 21, 2002, is a contradiction and a "juridical aberration," since the failure to adopt adequate measures of protection (legislative, administrative and judicial) affected everyone who was at the Center at the time of the events in question; in other words, it affected the deceased and injured inmates and all the other inmates as well; and

h) the State failed to cultivate policies that took into account the fact that some of the children were particularly deprived, both economically and socially.

139. As for the violation of Article 4 of the American Convention in relation to Article 1(1) thereof, the representatives argued that:

a) the State is responsible for the deprivation of the right to life of the twelve inmates who died;

b) a State does not fulfill its obligation to protect the right to life merely by refraining from depriving persons of their life arbitrarily; instead the protection of the right to life requires a more pro-active attitude on the State's part, especially when the persons deprived of liberty are children. The State has an obligation to guarantee the life of any persons under detention. Therefore, once it has been shown that the alleged victim died in custody, it is up to the State to prove that it had absolutely nothing to do with the cause of death;

c) overcrowding, caused in part by the excessive use of preventive detention, breeds violence and aggressiveness;

d) the prison conditions that the State allowed to persist at the Center were totally at odds with instruments for the protection of children's rights; the State did not take measures to prevent and avoid fires, such as installing a smoke alarm system, fire extinguishers and emergency exits;

e) the Center did not have proper equipment and its staff was neither sufficient in number nor properly trained;

f) the State ignored the repeated requests from national and international institutions asking it to establish detention conditions commensurate with the children's human dignity;

g) the violent riots were preventable; and

h) the State is responsible for the deaths of the two adolescents who were transferred to the adult prison at Emboscada, as these young people were in the custody of the State. If the State did not have a proper place to house the children, it should have either ordered in-home detention or released the children, especially inasmuch as the majority of the children were in preventive detention.

140. Concerning the violation of Article 5 of the American Convention in relation to Article 1(1) thereof, the representatives alleged that:

a) the State failed to comply with its duty to respect and ensure the right to humane treatment in the case of the three thousand seven hundred forty-four children detained at the Center in the period from August 14, 1996 to July 25, 2001, their next of kin, the thirty-eight children who were either burned or otherwise injured in the successive fires at the Center, and the children who were transferred to adult prisons;

b) the endless violence to which the State subjected the children at the Center was a pattern of systematic human rights violations contrary to the international standards for the protection of children; as a consequence, the burden of proving whether any of these conditions applied to all the inmates is reversed;

c) the conditions of detention at the Center included, *inter alia:* overpopulation; overcrowding; commingling of inmates awaiting or standing trial with those already convicted; lack of sanitary conditions; poor diet; lack of proper medical, dental and psychological care; lack of adequate education programs; lack of recreation, lack of fire safety and prevention measures; too few and poorly trained guards; no control of physical and mental violence; inhumane treatment and torture, which included the existence of a torture chamber and solitary confinement cell; lack of disciplinary and criminal investigation of cases of mistreatment and torture, with the result that such cases went unpunished; and transfer of children to adult prisons as a form of punishment or because of lack of space;

d) the children who were transferred to adult penal institutions endured conditions that were even worse than those at the Center: the overcrowding was worse; they had neither ventilation nor natural light; they were forced to urinate and defecate on the floor and were tortured; and

e) the State violated the mental integrity of the alleged victims' next of kin because of the fear, suffering and anxiety they suffered over the conditions under which the inmates were living and in their efforts to ascertain the condition and whereabouts of their children after the successive fires that left a number of inmates dead or injured, or transferred to adult prisons.

Pleadings of the State

141. Concerning the violation of Article 19 of the American Convention in relation to Article 1(1) thereof, the State admitted to the alleged victims named in the application and in the Court's order of June 21, 2002. However, it denied certain charges made by the Commission. The State further argued that:

a) the Center was moved from Emboscada to Asunción to enable families to visit more frequently and to put more emphasis on socialization programs, with the support of nongovernmental organizations;

b) structural problems with the system for handling juvenile offenders meant that the special protection that this vulnerable sector requires was completely neglected. However, those structural problems were gradually corrected, to the point that the Center itself was permanently closed;

c) the fact that the prison system had problems does not imply that there was any systematic violation of Article 19 of the Convention;

d) Paraguay's domestic laws already uphold the principle of the best interests of the child and all public policies are premised on that principle, under the supervision of a government agency specialized in formulating and implementing public policies for the comprehensive care and treatment of juvenile offenders. That agency is the Office of the Executive Secretary on Children and Adolescents;

e) at the beginning, the schedule for recreation time was restricted, owing to a lack of space and for security reasons, and to avoid fights between enemy gangs; inmates belonged to their neighborhood gangs;

f) the Center had a continuing formal education program attended by all interested inmates, since the State does not have the authority to require the inmates to pursue their studies. It is untrue that the actions taken to get certain educational programs implemented and recreational space created were limited in the wake of the fires; and

g) the State has limited ways and means to enable it to best respond to its obligations in the area of comprehensive inmate services.

142. As for Article 4 of the Convention, in relation to Article 1(1) thereof, the State acknowledged responsibility in the death of Benito Augusto Adorno. It also stated that:

a) it complied with its obligation to respect and ensure the right to life of all the juveniles at the Center and did not violate the right to life, either by action of omission, of any inmate at the Center, with the exception of adolescent Benito Augusto Adorno;

b) it did not violate the right to life of Héctor Ramón Vázquez and Richard Daniel Martínez, as these two died in fights that broke out between inmates in the Cellblock for Juveniles at Emboscada. They died as a result of wounds inflicted by home-made weapons. The State had provided them with immediate care and did everything possible to save their lives;

c) it is impossible to anticipate an inmate riot; all one can do is deal with the situation and look for the most effective means of alleviating the consequences of the violence;

d) the guards risked their lives to help the inmates inside the cellblocks who were being stricken by the smoke and fire, and all the inmates in Cellblock No. 8 were aided promptly, without discrimination, and were sent to emergency centers that would help the alleged victims and hopefully save their lives;

e) nine inmates died from burns and smoke inhalation caused by the fire set in Cellblock No. 8 as a consequence of a riot in February 2000; and

f) it is not for the State to take responsibility for events caused by individuals who became alleged victims and alleged authors of a crime in

which people were killed and injured, especially when either malice or negligence was involved. It would, therefore, be "unjust" to compensate the former inmates of Cellblock No. 8 and their next of kin since one or several of them was or were the cause of the fire, "with premeditation and malice aforethought."

143. In the case of Article 5 of the Convention in relation to Article 1(1) thereof, the State argued that:

a) it did admit to responsibility with regard to detention conditions incompatible with human dignity and with regard to the violation of Article 5, paragraphs 1, 2, 4, 5 and 6, to the detriment of the alleged victims named in the brief of application and in the Court's June 21, 2002 order;

b) the Center had an educational program and ongoing sports program for all inmates;

c) it prohibited solitary confinement as a form of punishment;

d) a lack of means made it difficult to segregate juveniles awaiting or standing trial from those already convicted. Nonetheless, efforts were being made to comply with that requirement;

e) the practice of incarcerating juveniles in the Juvenile Cellblock at the Emboscada adult prison was not a form of discipline; instead, inmates placed there "d[id] not have the proper profile to fit into the social and educational model developed at the Education Centers";

f) the overpopulation, crowding, slow pace of court cases, and the high percentage of inmates never convicted are uncontested facts. There is sufficient documentary evidence from official sources detailing the inadequacies of the State prison system. What has to be proved, however, are the human rights allegedly violated in each individual case; the alleged victim must be identified clearly and conclusively, not in some general and ambiguous way;

g) the operation of the Itauguá Education Center and the La Esperanza Penal Farm and, in its time, the former La Salle Education Center, coupled with the establishment of the National Service for the Treatment of Juvenile Offenders (SENAAI) were wise moves on the State's part and helped to improve the lot of children in conflict with the law;

h) under the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, juveniles in detention awaiting trial can be held in adult penal institutions, provided they are held in a separate part of the adult institution. The State looked for a way to ensure that minors transferred from the Center would have no contact with the adult inmates while at the Emboscada prison. However, there may have been exceptions where such contact did take place; and

i) the United Nations Rules for the Protection of Juveniles Deprived of Their Liberty provide that "The Rules shall be implemented in the context of the economic, social and cultural conditions prevailing in each Member State."

Paraguay did not have an institution with the capacity to accommodate all the juveniles in conflict with the law at the Center. Because resources were lacking, the competent authorities ordered the inmates' transferred to various prison facilities.

Considerations of the Court

144. Given the particularities of the instant case, the Court believes it would be appropriate to examine jointly the question of the right to life and the right to humane treatment of the inmates, adults and children deprived of their liberty at the Center between August 14, 1996 and July 25, 2001, and of the two children transferred from the Center to the Emboscada Regional Penitentiary.

145. Article 4(1) of the American Convention provides that:

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

146. The pertinent part of Article 5 reads as follows:

> 1. Every person has the right to have his physical, mental, and moral integrity respected.
>
> 2. No one shall be subjected to torture or to cruel, inhuman, or degrading punishment or treatment. All persons deprived of their liberty shall be treated regarding for the inherent dignity of the human person.
>
> [...]
>
> 4. Accused persons shall, save in exceptional circumstances, be segregated from convicted persons, and shall be subject to separate treatment appropriate to their status as unconvicted persons.
>
> 5. Minors while subject to criminal proceedings shall be separated from adults and brought before specialized tribunals, as speedily as possible, so that they may be treated in accordance with their status as minors.
>
> 6. Punishments consisting of deprivation of liberty shall have as an essential aim the reform and social readaptation of the prisoners.

147. The Court must point out that in the instant case, the alleged victims of a significant number of the violations being claimed are children who, like the adults, "have the same rights as all human beings [...] and also special rights derived from their condition, and these are accompanied by specific duties of the family, society, and the State."[150] This is the requirement under Article 19 of the American Convention, which provides that "Every minor child has the right to the measures of protection required by his condition as a minor on the part of his family, society, and the state." This provision must be construed as an added right which the Convention

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[150] *Juridical Condition and Human Rights of the Child.* Advisory Opinion OC-17/02 of August 28, 2002. Series A No. 17, para. 54.

establishes for those who, because of their physical and emotional development, require special protection.[151]

148. As it examines this case, this Court will take this factor into particular account and will decide the question of the alleged violations of other Convention-protected rights in light of the added obligations that Article 19 impose upon the State. To establish the content and scope of this article, the Court will take into consideration the pertinent provisions of the Convention on the Rights of the Child, which Paraguay ratified on September 25, 1990 and that entered into force on September 2, 1990, and the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (Protocol of San Salvador), which Paraguay ratified on June 3, 1997 and which entered into force on November 16, 1999. These instruments and the American Convention are part of a very comprehensive international *corpus juris* for the protection of children that the Court must honor.[152]

149. The examination of the State's possible failure to comply with its obligations under Article 19 of the American Convention should take into account that the measures of which this provision speaks go well beyond the sphere of strictly civil and political rights. The measures that the State must undertake, particularly given the provisions of the Convention on the Rights of the Child, encompass economic, social and cultural aspects that pertain, first and foremost, to the children's right to life and right to humane treatment.

150. Therefore, **in the instant case** the Court will not rule on the possible violation of Article 19 of the American Convention separately; instead, it will include its decision on the Article 19 violation in the chapters pertaining to the other rights whose violation has been alleged.

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151. This Court has held that all persons detained have the right to live in prison conditions that are in keeping with their dignity as human beings and that the State must guarantee their right to life and their right to humane treatment.[153]

152. The State has a special role to play as guarantor of the rights of those deprived of their freedom, as the prison authorities exercise heavy control or command over the persons in their custody.[154] So there is a special relationship and

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[151] *Cf. Juridical Condition and Human Rights of the Child, supra* note 150, para. 54*; and Case of the Gómez Paquiyauri Brothers, supra* note 26, para. 164.

[152] *Cf. Case of the Gómez Paquiyauri Brothers, supra* note 26, para. 166; *Case of the "Street Children" (Villagrán Morales et al.).* Judgment of November 19, 1999. Series C No. 63, para. 194; and *Juridical Condition and Human Rights of the Child, supra* note 150, para. 24.

[153] *Cf. Case of Bulacio, supra* note 56, paragraphs 126 and 138; *Case of Hilaire.* Judgment of June 21, 2002. Series C No. 94, para. 165; and *Case of Cantoral-Benavides.* Judgment of August 18, 2000. Series C No. 69, para. 87.

[154] *Cf. Case of the Gómez Paquiyauri Brothers, supra* note 26, para. 98; *Case of Juan Humberto Sánchez.* Judgment of June 7, 2003. Series C No. 99, para. 111; and *Case of Bulacio, supra* note 56, para. 138. See also, *Matter of Urso Branco Prison, supra* note 54, sixth paragraph under 'Considering"; and *Matter of the Gómez Paquiyauri Brothers. Provisional Measures*. Order of the Inter-American Court of Human Rights of May 7, 2004, thirteenth paragraph under 'Considering'.

interaction of subordination between the person deprived of his liberty and the State; typically the State can be rigorous in regulating what the prisoner's rights and obligations are, and determines what the circumstances of the internment will be; the inmate is prevented from satisfying, on his own, certain basic needs that are essential if one is to live with dignity.

153. Given this unique relationship and interaction of subordination between an inmate and the State, the latter must undertake a number of special responsibilities and initiatives to ensure that persons deprived of their liberty have the conditions necessary to live with dignity and to enable them to enjoy those rights that may not be restricted under any circumstances or those whose restriction is not a necessary consequence of their deprivation of liberty and is, therefore, impermissible. Otherwise, deprivation of liberty would effectively strip the inmate of all his rights, which is unacceptable.

154. Invariably, deprivation of liberty frequently affects the enjoyment of human rights other than the right to personal liberty.[155] An inmate's right to personal privacy and to the privacy of his family life may be restricted. This restriction of rights is a consequence or collateral effect of the deprivation of liberty, but must be kept to an absolute minimum[156] since, under international law, no restriction of a human right is justifiable in a democratic society unless necessary for the general welfare.[157]

155. By contrast, other rights –such as the right to life, the right to humane treatment, freedom of religion and the right to due process- cannot be restricted under any circumstances during internment, and any such restriction is prohibited by international law. Persons deprived of their liberty are entitled to have those rights respected and ensured just as those who are not so deprived.

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156. This Court has held that the right to life plays a key role in the American Convention as it is the essential corollary for realization of the other rights.[158] When the right to life is not respected, the other rights vanish because the bearer of those

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[155] *Cf. Case of the Gómez Paquiyauri Brothers, supra* note 26, para. 108; *Case of Maritza Urrutia*, *supra* note 57, para. 87; and *Case of Juan Humberto Sánchez*, *supra* note 154, para. 96.

[156] *Cf.* Standard Minimum Rules for the Treatment of Prisoners, adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva in 1955, and approved by the Economic and Social Council by its resolution 663C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977, para. 57.

[157] *Cf. Case of the "Five Pensioners"*, *supra* note 55, para. 116; and Article 5 of the Additional Protocol to the American Convention in the Area of Economic, Social and Cultural Rights (Protocol of San Salvador).

[158] *Cf. Case of the Gómez Paquiyauri Brothers, supra* note 26, para. 128; *Case of Myrna Mack Chang, supra* note 40, para. 152; and *Case of Juan Humberto Sánchez, supra* note 154, para. 110.

rights ceases to exist.[159] States have the obligation to ensure the conditions required for full enjoyment and exercise of that right.[160]

157. The right to humane treatment is a fundamental right that the American Convention protects by specifically prohibiting, *inter alia,* torture and cruel, inhuman, or degrading punishment or treatment; it also lists the right to humane treatment among those nonderogable rights that may not be suspended during states of emergency.[161]

158. The right to life and the right to humane treatment require not only that the State respect them (negative obligation) but also that the State adopt all appropriate measures to protect and preserve them (positive obligation), in furtherance of the general obligation that the State undertook in Article 1(1) of the Convention.[162]

159. As the Court previously indicated (*supra* paragraphs 151, 152 and 153), in order to protect and ensure the right to life and the right to humane treatment of persons deprived of their liberty and in its role as guarantor of those rights, the State has an ineluctable obligation to provide those persons with the minimum conditions befitting their dignity as human beings, for as long as they are interned in a detention facility. The European Court of Human Rights has likewise held that:

> under [Article 3 of the Convention], this provision the State must ensure that a person is detained in conditions which are compatible regarding for his human dignity, that the manner and method of the execution of the measure do not subject him to distress or hardship of an intensity exceeding the unavoidable level of suffering inherent in detention and that, given the practical demands of imprisonment, his health and well-being are adequately secured by, among other things, providing him with the requisite medical assistance.[163]

160. In the case of the right to life, when the person the State deprives of his or her liberty is a child, which the majority of the alleged victims in the instant case were, it has the same obligations it has regarding to any person, yet compounded by the added obligation established in Article 19 of the American Convention. On the one hand, it must be all the more diligent and responsible in its role as guarantor and must take special measures based on the principle of the best interests of the child.[164] On the other hand, to protect a child's life, the State must be particularly attentive to that child's living conditions while deprived of his or her liberty, as the child's detention or imprisonment does not deny the child his or her right to life or restrict that right (*supra* para. 159).

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[159] *Supra* note 158.

[160] *Supra* note 158.

[161] Articles 5 and 27 of the American Convention.

[162] *Cf. Case of the Gómez Paquiyauri Brothers, supra* note 26, para. 129; *Case of the 19 Tradesmen*, *supra* note 26, para. 153; and *Case of Myrna Mack Chang, supra* note 40, para. 153.

[163] *Eur. Court H.R. Kudla v. Poland, judgement of 26 October 2000,* no. 30210/96, paragraphs 93-94.

[164] *Cf. Case of the Gómez Paquiyauri Brothers, supra* note 26, paragraphs 124, 163-164, and 171; *Case of Bulacio*, *supra* note 56, paragraphs 126 and 134; and *Case of the "Street Children" (Villagrán Morales et al.), supra* note 152, paragraphs 146 and 191. See also *Juridical Condition and Human Rights of the Child, supra* note 150, paragraphs 56 and 60.

161. Articles 6 and 27 of the Convention on the Rights of the Child include within the right to life the State's obligation to "ensure to the maximum extent possible the survival and development of the child." The Committee on the Rights of the Child has interpreted the word "development" in its broadest sense as a holistic concept, embracing the child's physical, mental, spiritual, moral, psychological and social development.[165] Regarding to children deprived of their liberty and thus in the custody of the State, the latter's obligations include that of providing them with health care and education, so as to ensure to them that their detention will not destroy their life plans.[166] The United Nations Rules for the Protection of Juveniles Deprived of Their Liberty [167] provide that:

> 13. Juveniles deprived of their liberty shall not for any reason related to their status be denied the civil, economic, political, social or cultural rights to which they are entitled under national or international law, and which are compatible with the deprivation of liberty.

162. In the case of the right to humane treatment of a child deprived of his or her liberty, the State's obligations are intimately related to quality of life. The standard applied to classify treatment or punishment as cruel, inhuman or degrading must be higher in the case of children.[168]

163. In keeping with the foregoing, the United Nations' Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules) provide that:

> Juveniles in institutions shall receive care, protection and all necessary assistance-social, educational, vocational, psychological, medical and physical-that they may require because of their age, sex, and personality and in the interest of their wholesome development.[169]

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164. In the instant case, the Court must establish whether the State, in fulfillment of its role of guarantor, took measures to ensure to all inmates at the Center –adults and children alike- the right to live with dignity and thus help them build their life plan, even while incarcerated.

165. In the chapter on facts proven (*supra* paragraphs 134.3, 134.4 and 134.24) the Court concluded that the Center did not have the proper infrastructure to house the inmates and that the Center was overpopulated, which meant that inmates lived in a state of constant overcrowding. Inmates were confined in squalid cells, with few

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[165] United Nations Committee on the Rights of the Child, General Comment No. 5, November 27, 2003, para.12.

[166] *Cf. Juridical Condition and Human Rights of the Child, supra* note 150, paragraphs 80-81, 84, and 86-88; *Case of the "Street Children" (Villagrán Morales et al.), supra* note 152, para. 196; and Rule 13.5 of the Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules), adopted by the General Assembly in resolution 40/33 of 28 November 1985.

[167] United Nations Rules for the Protection of Juveniles Deprived of Their Liberty, adopted by the General Assembly in resolution 45/113 of 14 December 1990.

[168] *Cf. Case of the Gómez Paquiyauri Brothers, supra* note 26, para. 170.

[169] Rule 26.2 of the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules), adopted by the General Assembly in resolution 40/33 of 28 November 1985.

sanitary facilities; many did not have beds, blankets and/or mattresses, which forced them to sleep on the floor, take turns with their cellmates or share what few beds and mattresses there were (*supra* paragraphs 134.9 and 134.10).

166. It has been shown in the instant case (*supra* para. 134.4) that the overpopulation and crowding were exacerbated by the fact that the inmates were ill-fed, had few opportunities for exercise or recreation, and were not given prompt and proper medical, dental and psychological care (*supra* paragraphs 134.6 and 134.7).

167. Among the methods of punishment used at the Center were solitary confinement, torture and detention *incommunicado,* as a means to impose discipline over the inmate population (*supra* para. 134.16). These methods of discipline are strictly prohibited by the American Convention.[170] And while it has not been shown that all inmates at the Center experienced solitary confinement, torture, or detention *incommunicado,* the mere threat of conduct prohibited by Article 5 of the American Convention, when sufficiently real and imminent, can itself be in conflict with that article. In other words, creating a threatening situation or threatening an individual with torture may, in some circumstances, constitute inhumane treatment.[171] In the case *sub judice*, the threat of those punishments was real, creating a climate of relentless tension and violence that was inimical to the inmates' right to live with dignity.

168. Similarly, the subhuman and degrading detention conditions that all the inmates at the Center were forced to endure inevitably affected their mental health, with adverse consequences for the psychological growth and development of their lives and mental health.

169. It has also been established that the inmates at the Center who had been charged but never convicted were not held in quarters separate from convicted inmates. All inmates were subjected to the same treatment, and no distinction was made for whether they were convicted or not (*supra* paragraphs 134.20 and 134.21). This created a climate of insecurity, tension and violence in the Center. The State itself has admitted that the accused and the convicted were not housed separately and has attributed the situation to "a lack of means."[172] Finally, inmates were not given effective opportunities to reform and find their place in mainstream society (*supra* para. 134.24).

170. The Court can therefore conclude that conditions at the Center were never of the kind that would have enabled those deprived of their liberty to live with dignity; instead, the inmates were forced to live permanently in inhuman and degrading conditions, exposed to an atmosphere of violence, danger, abuse, corruption, mistrust and promiscuity, where the rule that prevailed was survival of the fittest, with all its consequences. Indeed, in his ruling on the petition of generic *habeas corpus* filed on behalf of the inmates at the Center, the Civil and Commercial Law Judge of First Instance, Ninth Rotation (*supra* para. 134.28) found that "the

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[170] *Cf. Case of Maritza Urrutia*, *supra* note 57, para. 87; *Case of Hilaire*, *supra* note 153, para. 164; and *Case of Bámaca Velásquez.* Judgment of November 25, 2000. Series C No. 70, para. 150.

[171] *Cf. Case of the 19 Tradesmen*, *supra* note 26, para. 149; and *Case of the "Street Children" (Villagrán Morales et al.), supra* note 152, para. 165. See also the European Court of Human Rights, *Campbell and Cosans, judgment of 25 February 1982, Series A, no. 48,* p. 12, § 26.

[172] Brief answering the application, para. 201, p. 55.

allegations of a) physical, psychological or moral violence exacerbating the conditions under which the inmates were held, [and] b) the threat to the personal safety of the juveniles interned [at the Center] ha[d] been proved."

171. These facts, attributable to the State, constitute a violation of Article 5 of the American Convention, to the detriment of all the inmates interned at the Center.

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172. The Court must now establish whether, in the case of the children interned at the Center, the State fulfilled the added obligations it has under Articles 4, 5 and 19 of the American Convention, based on the existing international *corpus juris* regarding the special protection that children require. One such obligation is provided for in Article 5(5) of the American Convention, whereby States are required to keep minors subject to criminal proceedings separated from adults. And, as previously noted (*supra* para. 161), another obligation of the State is to provide children deprived of their liberty with special periodic health care and education programs. These obligations follow from a proper interpretation of Article 4 of the Convention, in combination with the pertinent provisions of the Convention on the Rights of the Child and Article 13 of the Additional Protocol to the American Convention in the Area of Economic, Social and Cultural Rights, which Paraguay ratified on June 3, 1997 and which entered into force on November 16, 1999. Such measures are of fundamental importance inasmuch as the children are at a critical stage in their physical, mental, spiritual, moral, psychological and social development that will impact, in one way or another, their life plan.

173. In the instant case it has been shown (*supra* paragraphs 134.6 and 134.7) that the children interned in the Center did not even have the proper health care that any person deprived of his or her liberty must have, and were thus denied the regular medical supervision that would ensure the children's normal growth and development so essential to their future.

174. It has also been proven that the State did not provide the children interned at the Center with the education they needed and that the State was required to provide as part of its obligation to protect the right to life, in the sense previously explained, and as required under Article 13 of the Additional Protocol to the American Convention in the Area of Economic, Social and Cultural Rights. The education program offered at the Center was unsatisfactory, as it did not have adequate resources and teachers (*supra* para. 134.12). The State's failure to fulfill its obligation in this regard has all the more serious consequences when the children deprived of liberty are from marginal sectors of society, as is true in the instant case, because the failure to provide an adequate education limits their chances of actually rejoining society and carrying forward their life plans.

175. As for compliance with Article 5(5) of the Convention, it has been established (*supra* para. 134.16) that on a number of occasions, children were transferred to adult prisons either as a form of punishment or because of overcrowding at the Center, and that at those adult penal institutions the children shared physical space with adults. This exposed the children to conditions highly prejudicial to their development and made them vulnerable to others who, as adults, could prey upon them.

176. In light of the brief answering the application, where the State admitted responsibility "with regard to the detention conditions incompatible with human dignity" and the other facts established in this chapter, the Court can conclude that the State did not effectively fulfill its role as guarantor of the rights of the child, in this special relationship of subordination between the State and the adult/child deprived of liberty. The State failed to take the necessary positive measures to ensure to all inmates decent living conditions. It also failed to take the special measures of protection that are required of it where children are concerned. Furthermore, it was the State that allowed its agents to threaten, infringe, violate or restrict nonderogable rights that may not be violated or restricted under any circumstances or in any way, by exposing all the inmates at the Center to cruel, inhuman and degrading treatment and to unfit living conditions that were prejudicial to their right to life, their growth and development and their life plans. By its failings, the State violated Articles 4(1), 5(1), 5(2) and 5(6) of the American Convention, in relation to Article 1(1) thereof and, in the case of the children, Article 19 of the Convention as well. These violations were committed to the detriment of all inmates at the Institute in the period from August 14, 1996 to July 25, 2001, whose names appear on the list submitted by the Commission on November 19, 2002 (*supra* para. 36), which is attached to the present Judgment.

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177. While the State failed to create the conditions and to take the measures necessary for the inmates at the Center to live in dignity and build a decent life while deprived of their liberty and failed to fulfill the added obligations it has vis-à-vis children, it also kept the Center in conditions that invited fire; those conditions also meant that when the fires inevitably happened, they had terrible consequences for the inmates. And it neglected those conditions despite repeated warnings and recommendations from international and nongovernmental organizations about the danger that conditions at the Center posed. As a result of these fires, the following inmates perished: Elvio Epifanio Acosta Ocampos, Marco Antonio Jiménez, Diego Walter Valdez, Sergio Daniel Vega Figueredo, Sergio David Poletti Domínguez, Mario del Pilar Álvarez Pérez, Juan Alcides Román Barrios, Antonio Damián Escobar Morinigo and Carlos Raúl de la Cruz (*supra* para. 134.29).

178. From the facts proven in the instant case (*supra* para. 134.32), it has been shown that the State did not take sufficient preventive measures to respond to the possibility of a fire at the Center. Because the facility was not originally planned to serve as a Reeducation Institute, none of the safety, evacuation-related and emergency measures needed for an event of this kind were taken. For example, the Center was not equipped with either fire alarms or fire extinguishers and guards were not trained to respond to emergencies. The Court has previously held that in its role as guarantor, the State has an obligation "to design and apply a crisis-prevention prison policy,"[173] the kind of crisis that could threaten the fundamental rights of inmates in the State's care and custody.

179. In view of the foregoing, the Court concludes that the State's failure to prevent resulted in the death of a number of inmates. If not for all inmates, the tragedy was particularly traumatic and painful for many of them, as the loss of life was caused by asphyxiation or burns, prolonging their suffering for a number of days. This is gross negligence on the State's part, by virtue of which it is responsible

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[173] *Matter of Urso Branco Prison, supra* note 54, thirteenth paragraph under 'Considering'.

for violation of Article 4(1) of the American Convention, in relation to Article 1(1) thereof, read in combination with Article 19 of the Convention, to the detriment of the inmates named above.

180. The Court would like to make special reference to three children in particular,[174] who died at Paraguayan penal institutions but not as a result of the fires at the Center, and whose deaths are alleged to have engaged the State's responsibility for violation of their right to life:

a) *the deaths of Richard Daniel Martínez and Héctor Ramón Vázquez*

181. On September 10, 2001, Richard Daniel Martínez, age 18, died from a wound inflicted by a blade in the juvenile cellblock at the Emboscada Regional Penitentiary for adults (*supra* para. 134.46). On March 14, 2002, Héctor Ramón Vázquez, age 17, was stabbed in the same penal institution and died on March 15, 2002 (*supra* para. 134.47). Both deceased inmates had been transferred from the Center to the Emboscada adult prison after the Center was closed (*supra* para. 134.47).

182. The State argued that it did not violate the right to life of these two juveniles, as they died in fights between inmates in Emboscada's Juvenile Cellblock, as a result of wounds inflicted by home-made weapons. The State added that they were given immediate treatment and that everything possible was done to save their lives.

183. The comments concerning the conditions in which the inmates were kept (*supra* para. 134.3 a 134.24), which created a climate conducive to acts of violence, and the comments concerning the inmates who died as a result of the fires (*supra* paragraphs 177 to 179), are just as relevant and pertinent in the case of the deaths of Richard Daniel Martínez and Héctor Ramón Vázquez.

184. As previously pointed out, the State has an obligation to guarantee the right to life and the right to humane treatment of the inmates interned in its penal institutions (*supra* para. 151). Therefore, even though no State agent appears to have been the immediate cause of the deaths of the two juveniles incarcerated in the Emboscada penitentiary, the State had a duty to create the conditions necessary to avoid, to the maximum extent possible, fighting among inmates. The State did not fulfill that obligation and thus incurred international responsibility for the deaths of juveniles Richard Daniel Martínez and Héctor Ramón Vázquez, thereby violating Article 4(1) of the Convention, in combination with Articles 1(1) and 19 thereof.

b) *the death of Benito Augusto Adorno*

185. In its brief answering the application and then again in its final oral and written submissions, the State admitted to its violation of Article 4 of the Convention in the case of the death of Benito Augusto Adorno, an inmate who was shot by a staff member at the Center on July 25, 2001, and then died on August 6, 2001 (*supra* para. 134.35).

186. The Court therefore concludes that the State is responsible for the death of the juvenile Benito Augusto Adorno, and thus violated Article 4(1) of the American Convention, in relation to Articles 1(1) and 19 thereof.

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[174] Under the law in force at that time, the age of majority was 20 (*supra* note 149).

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187. The Court observes that the same considerations made in the case of the inmates who were deprived of their right to life (*supra* paragraphs 177 to 179), also apply in the case of those injured in the fires, all of whom were children, namely: Abel Achar Acuña, José Milciades Cañete Chamorro, Ever Ramón Molinas Zárate, Arsenio Joel Barrios Báez, Alfredo Duarte Ramos, Sergio Vincent Navarro Moraez, Raúl Esteban Portillo, Ismael Méndez Aranda, Pedro Iván Peña, Osvaldo Daniel Sosa, Walter Javier Riveros Rojas, Osmar López Verón, Miguel Ángel Coronel Ramírez, César Fidelino Ojeda Acevedo, Heriberto Zarate, Francisco Noé Andrada, Jorge Daniel Toledo, Pablo Emmanuel Rojas, Sixto Gonzáles Franco, Francisco Ramón Adorno, Antonio Delgado, Claudio Coronel Quiroga, Clemente Luis Escobar González, Julio César García, José Amado Jara Fernández, Alberto David Martínez, Miguel Angel Martínez, Osvaldo Mora Espinola, Hugo Antonio Vera Quintana, Juan Carlos Zarza Viveros, Eduardo Vera, Cándido Ulises Zelaya Flores, Hugo Olmedo, Oscar Rafael Aquino Acuña, Nelson Rodríguez, Demetrio Silguero, Aristides Ramón Ortiz Bernal, Carlos Raúl Romero Giacomo, Carlos Román Feris Almirón, Pablo Ayala Azola, Juan Ramón Lugo and Rolando Benítez. Thus, the State's responsibility is by virtue of its gross negligence by failing to take the minimum necessary fire-prevention measures.

188. The inmates who sustained injuries in the fires and managed to survive, endured painful mental and physical suffering. Some are still suffering the physical and/or psychological after-effects (*supra* para. 134.48). The burns, wounds and smoke inhalation that the children identified in the preceding paragraph suffered as a result of the fires, which happened while they were in the custody and supposed protection of the State, and the after-effects of those burns, wounds and smoke inhalation, constitute treatment in violation of Articles 5(1) and 5(2) of the American Convention, in relation to Articles 1(1) and 19 thereof, to the detriment of the afore-named persons (*supra* paragraphs 177 and 187).

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189. In the case *sub judice* there is irrefutable evidence that the State failed to comply with the provisions of subparagraphs 4 and 5 of Article 5 of the Convention (*supra* para. 134.20 and 134.21). However, the Court is not in a position to find a violation in respect of the victims named, because the information in the body of evidence in the instant case is incomplete. Having said this, the Court is troubled by this noncompliance and urges the State to correct the situation immediately.

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190. For all the foregoing reasons, the Court finds that the State violated Article 4(1) of the American Convention, in relation to Article 1(1) thereof and, where the victims were children, Article 19 thereof, to the detriment of the deceased. It finds further that the State violated Articles 4(1), 5(1), 5(2) and 5(6) of the American Convention, in relation to Article 1(1) thereof, and also Article 19 when the victims were children, to the detriment of all the inmates interned in the Center in the period between August 14, 1996 and July 25, 2001; and Articles 5(1) and 5(2) of the American Convention, in relation to Articles 1(1) and 19 thereof, to the detriment of the children injured as a result of the fires.

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191. As regards the alleged violation of the right to humane treatment of all the next of kin of the inmates who died or were injured as a consequence of the events in this case, the Court finds that next of kin, such as parents and siblings identified to this Court, are victims, namely: Feliciana Ocampos, Asunción Acosta, Ignacia Giménez, Teódulo Barboza, Felipa Valdez, Luis Ávila, Rosalía Figueredo, Dionicio Vega, Teofista Domínguez, Guillermo Augusto Poletti, María Teresa de Jesús Pérez, María Estela Barrios, Fidelina de la Cruz, Rosalinda Giménez Duarte, Benito Isidoro Adorno, Apolinaria Acuña, Roque Achar, María Estella Chamorro, Andrés Cañete B., María Rosa Virginia Baes, Concepción Ramos viuda de Duarte, Viviana Moraes, Leoncio Navarro, Silvia Portillo Martínez, Eristrudis o Edith Aranda, Tranquilino Méndez, Dirma Monserrat Peña, Emiliana Toledo, Flora Franco, Jerónimo Gonzáles, Cristina Delgado, Antonio Vera and Felipa Vera. Their affective ties and kinship with the inmates allows the Court to assume that the violations committed against those inmates caused the afore-named family members tremendous grief, anguish and a sense of powerlessness.

192. In the case *sub judice,* the parents named above have endured their children's pain and suffering, and Dirma Monserrat Peña has endured the pain and suffering of her brother, because of the violent and tragic circumstances of the deaths of some children, and the traumatic experience that those who survived endured. The next of kin of those injured in the fires had to make their own inquiries to ascertain their children's whereabouts in the wake of the fire and find the hospital to which they had been transferred. Finally, all the above-named next of kin had to endure the cruel treatment to which the deceased and injured were subjected while inmates at the Center.

193. The Court therefore finds that in the case of these next of kin, the State is responsible for violation of Article 5(1) of the American Convention, in relation to Article 1(1) thereof.

IX

VIOLATION OF ARTICLES 2 AND 8(1) OF THE AMERICAN CONVENTION, IN RELATION TO ARTICLES 19 AND 1(1) THEREOF (DOMESTIC LEGAL EFFECTS AND THE RIGHT TO A FAIR TRIAL)

194. In the case *sub judice,* the pleadings that concern Article 19 are in the section on Articles 4 and 5 of the American Convention.

Pleadings of the Commission

195. The Commission did not allege violation of Article 2 of the Convention.

196. With regard to the violation of Article 8 of the American Convention, in relation to Article 1(1) thereof, the Commission argued that:

a) this article of the Convention was violated, to the detriment of the inmates at the Center in the period from August 14, 1996 to July 25, 2001;

b) to determine the scope of the procedural guarantees in cases involving children, those guarantees must be read in relation to Article 19 of the

Convention and the international rules governing juvenile justice, such as the Convention on the Rights of the Child, the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, and the United Nations Rules for the Protection of Juveniles Deprived of Their Liberty;

c) it was systematic practice to hold juveniles for longer than what was reasonable, without even a hearing, with the result that juveniles spent long periods in preventive detention;

d) the legal aid that the State provided was ineffective, as the great majority of the inmates were without legal representation and did not have the *pro bono* legal aid that would have allowed their court cases to go forward;

e) convicted and accused inmates were not housed in separate quarters, which was a violation of the principle of presumption of innocence, recognized in the second paragraph of Article 8 of the Convention;

f) under Paraguay's previous criminal law, all children came under the jurisdiction of the regular criminal law courts as of the age of14. Although the new Child and Adolescent Code sets the minimum age for a finding of criminal responsibility at age 18, only part of the Code entered into force in November 2001; it was not until April 2002 that the full Code went into effect. As a result, the new Code in no way benefited the minors in the instant case; and

g) when the minors were transferred to adult penal institutions, they were moved far from family and visitors; but they were also moved far from their attorneys, which left them with no chance of staging an effective legal defense.

Pleadings of the representatives

197. With regard to the violation of Article 2 of the American Convention, in relation to Article 1(1) thereof, the representatives alleged that:

a) the State violated those provisions of the Convention, to the detriment of all the alleged victims;

b) under Articles 1(1) and 2 of the American Convention, States have an obligation to respect the rights recognized in the Convention and to ensure their free and full exercise to all persons subject to their jurisdiction. The principle of nondiscrimination is central to determining the nature of the State's positive obligations to provide children with measures of protection;

c) the obligation to ensure the free and full exercise of human rights is not satisfied merely because a system of laws is in place whose purpose is to make compliance with this obligation possible; instead, the obligation also means that the government must comport itself in such way as to ensure that an effective guarantee of free and full exercise of human rights exists in fact; and

d) one finds in the State's conduct a pattern of abuses that involves egregious violations of children's rights and, by extension, of the State's duty to take adequate measures to protect them.

198. The representatives argued the following with reference to the violation of Article 8 of the American Convention, in relation to Article 1(1) thereof:

a) the State violated Article 8 of the Convention, in combination with Article 19 thereof and the corresponding Articles of the Convention on the Rights of the Child, by maintaining a juvenile justice system that violated the guarantees of due process of law;

b) special measures of protection should have been applied during juvenile court proceedings and the State's discretionary authority should have been limited;

c) the judicial guarantees set forth in Article 8 of the Convention apply not just to cases involving adults, but also to cases involving children and adolescents, and to procedures and proceedings conducted to determine their rights or situations;

d) the State kept in place an anachronistic judicial system that did not allow for effective oversight of court rulings or continuous review of the sentences imposed;

e) the State had no juvenile courts, no juvenile defenders, and no prosecutors specializing in juvenile justice;

f) children came under the jurisdiction of the common criminal-law courts as of the age of 14;

g) their legal counsel was ineffective, as visits to the incarcerated did not occur on a regular basis and the defense strategy mounted was weak;

h) inmates spent protracted periods of time in preventive custody. While the Minor's Code stipulated that internment in a special institution was not to exceed two years, in practice children languished in preventive detention for far longer than that, which had the effect of making preventive detention an abusive and arbitrary practice. Before the new Code of Criminal Procedure took effect –which entered into full force as of March 2000- criminal cases generally were delayed for an excessive, unreasonable and unjustifiable period of time. The statistics cited by Paraguay's own Supreme Court showed that cases instituted under the old code of criminal procedure lasted approximately two years and eight months;

i) inmates awaiting or standing trial were not separated from convicted inmates, in violation of the principle of presumption of innocence;

j) the new Child and Adolescent Code entered into force in April 2002, so that its effects did not apply to the inmates at the Institute; and

k) the statute regulating the prison system has not been revised, despite the fact that the State acknowledges the need for its revision. Nor does Paraguay have a Law on Enforcement of Criminal Judgments.

Pleadings of the State

199. In the case of Article 2 of the Convention, the State argued that prior to 1998 Paraguay did not have a criminal justice system that emphasized guarantees and that provided a special proceeding for juveniles; nor did its juvenile justice code conform to international standards governing this subject; however, its fulfillment of its obligation to adopt domestic measures was "beyond question," given the new laws that began to be introduced with penal and judicial reform in Paraguay starting in 1997, one year after the present case was submitted to the Commission.

200. In the case of Article 8 of the Convention, the State reasoned that:

a) in the petition of generic *habeas corpus* it filed, the Tekojojá Foundation, the original complainant, acknowledged that the minors were lawfully deprived of their liberty;

b) it complied with its obligation under Article 8(2)(e) of the Convention, to provide legal counsel to the inmates at the Center. Most of the inmates at the Center turned to the Ministry of Public Defense to be assigned defenders, who provided legal assistance to ensure effective procedural guarantees and due process of law; and

c) the Commission has utterly failed to demonstrate that the State violated Article 8(2)(c) of the Convention, a right that every accused person has to be provided with adequate time and means for the preparation of his defense.

Considerations of the Court

201. Given the particulars of the instant case, the Court will analyze Articles 2 and 8(1) of the American Convention in combination and in relation to Articles 19 and 1(1) thereof. The Court will spell out the State's obligations under Article 2 of the Convention and then analyze them in the context of the judicial guarantees that the Convention provides for children in conflict with the law.

202. First, this Court has already established that the alleged victims or their legal representatives can assert or invoke new rights in their brief of pleadings and motions (*supra* para. 125), which was done in the case of Article 2 of the American Convention.

203. Article 2 of the Convention provides that:

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

204. Article 8(1) of the American Convention, for its part, provides that:

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

205. In general international law, it is a universally accepted principle of customary law that a State that has ratified a human rights treaty must make the necessary amendments to its domestic laws to ensure proper compliance with the obligations it has undertaken.[175] The American Convention establishes the general obligation of each State party to adapt its domestic laws to the Convention's provisions, so as to guarantee the rights therein protected.[176] This general obligation of a State party means that the provisions of domestic law must be effective (principle of *effet utile*).[177] This means that the State must adopt all measures so that the provisions of the Convention are effectively fulfilled in its domestic legal system, as Article 2 of the Convention requires.[178]

206. The Court has held that the general duty set forth in Article 2 of the American Convention implies the adoption of measures on two fronts: on the one hand, the suppression of rules and practices of any kind that entail violation of the guarantees set forth in the Convention; on the other, the issuance of rules and the development of practices leading to the effective observance of said guarantees.[179]

207. In the case *sub judice,* the representatives alleged noncompliance with Article 2 of the American Convention. The grounds upon which it based its assertion included the following: a) the relevant domestic law did not establish the subsidiarity principle and did not stipulate that preventive detention was to be reserved for exceptional cases; b) the pattern of abusive violations of children's rights makes it incumbent upon the State to adopt adequate measures for their protection; and c) the obligation to ensure the free and full exercise of human rights is not satisfied merely because a system of laws is in place whose purpose is to make compliance with this obligation possible; it also means that the State in fact ensures the existence of an effective guarantee of the free and full exercise of human rights.

208. Under Paraguay's 1981 Minor's Code, children came under the jurisdiction of the regular criminal justice system as of the age of 14. The State itself acknowledged that "prior to 1998 Paraguay did not have a criminal justice system that emphasized guarantees and that provided for special criminal proceedings for juveniles, much less a [juvenile justice code that] conform[ed] to international standards governing this subject." The Court must point out that while the new Code of Criminal Procedure enacted in 1998 provides for special juvenile

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175 *Cf. Case of Bulacio*, *supra* note 56, para. 140; *Case of the "Five Pensioners"*, *supra* note 55, para. 164; and *Case of Cantos, supra* note 59, para. 59.

176 *Cf. Case of Bulacio*, *supra* note 56, para. 142; *Case of the "Five Pensioners"*, *supra* note 55, para. 164; and *Case of Cantos, supra* note 59, para. 59.

177 *Supra* note 176.

178 *Supra* note 176.

179 *Cf. Case of the "Five Pensioners"*, *supra* note 55, para. 165; *Case of Baena Ricardo et al.* . Competence, Judgment of November 28, 2003. Series C No. 104, para. 180; *Case of Cantoral-Benavides, supra* note 153, para. 178.

proceedings, those regulations make no provision for a specialized jurisdiction for juvenile offenders. So no specific forum was established in Paraguay for children in conflict with the law until Policy Decision No. 214 of May 18, 2001, which regulates the functions of the judges in juvenile trial and sentencing court (*supra* para. 134.57); nor was any special procedure established that would be appropriate for questioning children in conflict with the law.

209. The guarantees set forth in Articles 8 of the Convention are equally recognized for all persons, and must be correlated with the specific rights established in Article 19 in such a way that they are reflected in any administrative or judicial proceedings where the rights of a child are discussed.[180] While procedural rights and their corollary guarantees apply to all persons, in the case of children exercise of those rights requires, due to the special condition of minors, that certain specific measures be adopted for them to effectively enjoy those rights and guarantees.[181]

210. This Court has held that one obvious consequence of the importance of handling matters that pertain to children differently, and specifically those matters having to do with some unlawful behavior, is the establishment of specialized jurisdictional bodies to hear cases involving conduct defined as crimes and attributable to juveniles.[182] The Convention on the Rights of the Child provides that States shall seek to promote "the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognized as having infringed the penal law."[183]

211. According to the relevant international standards on the subject, the special jurisdiction for children in conflict with the law in Paraguay, and its related laws and procedures should feature, *inter alia,* the following: 1) first, the system should be able to provide measures for dealing with such children without resorting to judicial proceedings;[184] 2) should judicial proceedings be necessary, the juvenile court should be able to order a variety of measures, such as psychological counseling for the child while on trial, control over the way the child's testimony is taken, and regulation of the public nature of the proceedings; 3) it should also have a sufficient margin of discretion at all stages of the proceedings and at the different levels of juvenile justice administration[185]; and 4) those who exercise discretion should be specially qualified or trained in the human rights of the child and child psychology to avoid any abuse of the discretionary authority and to ensure that the measures ordered in any case are appropriate and proportionate.[186]

212. Those elements, whose purpose is to recognize the child's general vulnerability vis-à-vis judicial proceedings and the greater impact that the

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[180] *Cf. Juridical Condition and Human Rights of the Child, supra* note 150, para. 95

[181] *Cf. Juridical Condition and Human Rights of the Child, supra* note 150, para. 98.

[182] *Cf. Juridical Condition and Human Rights of the Child, supra* note 150, para. 109.

[183] Article 40.3 of the Convention on the Rights of the Child.

[184] *Cf.* Article 40.3.b) of the Convention on the Rights of the Child.

[185] *Cf.* Rule 6.1 of the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules), adopted by the General Assembly in its resolution 40/33 of 28 November 1985.

[186] *Cf.* Rule 6.3 of the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules), adopted by the General Assembly in its resolution 40/33 of 28 November 1985; and Article 40.4 of the Convention on the Rights of the Child.

experience of standing trial has on a child, were missing from the pertinent Paraguayan laws, at least until 2001.

213. For the foregoing reasons the Court concludes that by failing to establish, until 2001, a specialized court jurisdiction for children in conflict with the law or a proceeding other than the one followed in the case of adults and that adequately provided for their special status, the State violated Articles 2 and 8(1) of the Convention, both in relation to Articles 19 and 1(1) thereof, to the detriment of the children who were interned at the Center in the period from August 14, 1996 to July 25, 2001.

214. On the other hand, the Court welcomes the work that the State has accomplished through its recent legislative, administrative and other reforms (*supra* para. 134(57)), as those reforms take on special importance vis-à-vis the protection of juvenile offenders. In the case *sub judice,* it is not for this Court to decide whether the current laws are compatible with the American Convention.

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* *

215. The Court notes that in the instant case, both the Commission and the representatives have alleged patterns or systematic practices that violated Article 8 of the American Convention, to the detriment of all the inmates interned at the Center in the period between August 14, 1996 and July 25, 2001. The Commission, on the one hand, alleged that the practice meant, *inter alia*, that inmates were not given a hearing within a reasonable period, and spent long periods in preventive detention. The representatives, for their part, alleged that a routine practice existed that was a violation of international standards for the protection of the child and involved, *inter alia,* the following: a) unwarranted delays in rendering final judgments on cases; b) unsatisfactory legal counsel provided to the children; and c) a failure to investigate those responsible for the detention conditions at the Center. Both the Commission and the representatives reason, therefore, that the State bears the burden of proof in the case of these practices that, they allege, violated Article 8 of the Convention; in other words, the State must show proof of individual cases in which such violations of the judicial guarantees of the inmates at the Center did not occur.

216. This Court deems that general facts related to certain judicial guarantees of the inmates at the Center have been established (*supra* para. 134.18 a 134.24), such as the slow pace of the inmates' cases and the poor legal counsel provided to them. The foregoing notwithstanding, in order for the Court to determine whether a violation of specific judicial guarantees provided for in Article 8(2) of the Convention has occurred, the Commission and/or the representative of the alleged victim must provide the information necessary for the State, if it can, to demonstrate to this Court that it has complied with the obligations that arise out of that provision. In the instant case, that information on individual cases was not provided.

217. Although the Court has frequently used patterns of conduct or practices as a means of evidence to determine that human rights were violated, it has always done so when the finding is supported by other specific pieces of evidence. In the case of Article 8 of the American Convention, the Court needs information about each individual victim and how his case was dealt with in the domestic courts. The Inter-American Court was not given that kind of information in the instant case.

218. This Court therefore finds that Article 8(1) of the Convention, in relation to Articles 19, 2 and 1(1) thereof, has been violated to the detriment of the children who were interned at the Center in the period from August 14, 1996 to July 25, 2001. However, this Court does not have sufficient information to determine whether the State violated Article 8(2) of the Convention in the case of specific alleged victims.

X

ARTICLE 7 OF THE AMERICAN CONVENTION IN RELATION TO ARTICLE 1(1) THEREOF (RIGHT TO PERSONAL LIBERTY)

Pleadings of the Commission

219. The Commission's pleadings with regard to the violation of Article 7 of the American Convention in relation to Article 1(1) thereof, were as follows:

a) the State violated Article 7 of the American Convention, in relation to Article 1(1) thereof, to the detriment of the children and adolescents housed at the Center between August 14, 1996 and July 25, 2001, and of those subsequently transferred to adult prisons; and

b) the right to personal liberty was violated inasmuch as a pattern emerged that adversely affected all the juveniles interned in the Center and consisted of the following:

i. a generalized state of preventive detention in which 95% of the inmates were in preventive detention and only 5% had actually been convicted. The State thus violated the principles dictating that detention shall be used only in exceptional cases, for specified periods of time that are to be as short as possible, and as a measure of last resort. These are the principles governing the use of deprivation of liberty as a preventive measure and as punishment in the case of persons under the age of 18;

ii. the State's failure to ensure the effectiveness of the writ of *habeas corpus* granted through a ruling of July 31, 1998, in response to a petition filed on behalf of the inmates asking the court to order that they be housed in proper facilities;

iii. the conditions under which they were detained, such as overcrowding, filth, lack of ventilation, lack of recreation, and poor diet;

iv. the lack of properly trained personnel in sufficient numbers to guarantee the alleged victims' safety, as there was only one guard for every 20 inmates; and

v. the fires that happened.

Pleadings of the representatives

220. Concerning the violation of Article 7 of the American Convention in relation to Article 1(1) thereof, the representatives alleged that:

a) the State violated the right to personal liberty and security, to the detriment of the three thousand seven hundred forty-four children who were interned at the Center in the period from August 14, 1996 to July 25, 2001, and those who were transferred to adult prisons;

b) under the Paraguayan law in effect at the time of the events herein denounced, the domestic courts had sweeping authority to order preventive detention, an authority that the courts exercised as a generalized, abusive and arbitrary practice;

c) internationally accepted principles for the incarceration of juveniles were violated, as the State provided no alternatives to imprisonment in the case of minors in conflict with the law. The primary purpose of the sentence was not to educate the juvenile and reincorporate him into society;

d) the Minor's Code made no provision for the subsidiarity principle and did not provide that deprivation of liberty as a preventive measure was to be used only in exceptional cases; it left that decision entirely to the judge's discretion;

e) the Articles added to the Code of Criminal Procedure on the subject of preventive detention (which entered into force in July 1999) do make provision for the subsidiarity principle and the principle of *ultima ratio*. The same cannot be said, however, of the earlier Code of Criminal Procedure, which authorized preventive detention in all those cases in which there was *prima facie* evidence of the commission of a crime and evidence to suggest that the accused was involved. These standards do not comport with the international standards on this subject;

f) even when a detention is done in accordance with the existing law, it may still be arbitrary if it is unreasonable, unforeseeable or disproportionate;

g) the endless violence that the State forced upon the children interned at the Center constituted systematic violations of human rights contrary to the international standards for the protection of children. The presence of a generalized practice has one important consequence, which is to reverse the burden of proving that these conditions applied to each and every children; and

h) the court system made generalized, abusive and arbitrary use of preventive detention; the criminal laws applied did not take the accused' status as a child into account; juveniles' cases experienced unwarranted delays before being decided, and the legal counsel provided to the inmates was unsatisfactory.

Pleadings of the State

221. Concerning Article 7 of the Convention, the State alleged that:

a) the allegation of violation of Article 7 was not properly substantiated and proven;

b) all the inmates at the Center were taken there by order of the court. Therefore, these were not arbitrary detentions; quite the contrary, these were lawfully adopted measures or sanctions. Consequently the lawfulness of the preventive detention measures order by the competent judges against the juveniles interned at the Center is not a debatable point;

c) the petition of *habeas corpus* filed had a specific purpose unrelated to the rights protected under Articles 7(5) or 7(6) of the Convention. The purpose of Ruling No. 652 of July 31, 1998, which granted that petition, was to place the juvenile offenders in adequate facilities. The judge who heard the petition did not challenge –nor did the original claimant- the lawfulness of the detention measures ordered against the inmates at the Center;

d) an analysis of the combined list of alleged victims, presented by the Commission, plainly shows that the vast majority of the juveniles have been released by order of the court, after having served the detention ordered by competent judges;

e) the principles requiring that preventive detention be reserved for exceptional cases and be for specified periods that are to be as brief as possible, and then only as a last resort, were not violated as the procedural code in effect at the time the petition was filed made no provision for those principles. As criminal law has gradually evolved, especially juvenile criminal justice (such as the Child and Adolescent Code, for example), this situation has been corrected and with that the aforementioned principles have been fully incorporated into domestic positive law. The Commission has not singled out any case that demonstrates that these principles were violated;

f) under the previous system of criminal proceedings and when the former Minor's Code was still in effect, there were problems in the handling of criminal cases. However, those difficulties have largely been corrected with the introduction of the new criminal proceeding and with application of Law 1444/99 "Transition to the New Criminal Justice System," the results of which the Commission has noted on a number of occasions; and

g) in May 2001, the Supreme Court delivered Policy Decision 214 regulating the competence of the juvenile trial and sentencing courts and ordering a redistribution of cases. It also established rapid procedures for settlement of cases instituted under the old Code of Criminal Procedure.

Considerations of the Court

222. Article 7 of the American Convention regulates the guarantees needed to safeguard personal liberty and reads as follows:

> 1. Every person has the right to personal liberty and security.
>
> 2. No one shall be deprived of his physical liberty except for the reasons and under the conditions established beforehand by the constitution of the State Party concerned or by a law established pursuant thereto.
>
> 3. No one shall be subject to arbitrary arrest or imprisonment.

> 4. Anyone who is detained shall be informed of the reasons for his detention and shall be promptly notified of the charge or charges against him.
>
> 5. Any person detained shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to be released without prejudice to the continuation of the proceedings. His release may be subject to guarantees to assure his appearance for trial.
>
> 6. Anyone who is deprived of his liberty shall be entitled to recourse to a competent court, in order that the court may decide without delay on the lawfulness of his arrest or detention and order his release if the arrest or detention is unlawful. In States Parties whose laws provide that anyone who believes himself to be threatened with deprivation of his liberty is entitled to recourse to a competent court in order that it may decide on the lawfulness of such threat, this remedy may not be restricted or abolished. The interested party or another person in his behalf is entitled to seek these remedies.
>
> [...]

223. The essence of Article 7 of the American Convention is the protection of the liberty of the individual from arbitrary or unlawful interference by the State and the guarantee of the detained individual's right of defense.[187] This Court has written that the protection of freedom safeguards both the physical liberty of the individual and his personal safety, in a context where the absence of guarantees may result in the subversion of the rule of law and deprive those detained of the minimum legal protection.[188]

224. Subparagraphs 2 and 3 of Article 7 establish the limits on public power and expressly prohibit unlawful and arbitrary detentions. The Court has held that:

> [a]ccording to the first of these regulatory provisions, no one shall be deprived of his physical liberty, except for reasons, cases or circumstances specifically established by law (material aspect), but, also, under strict conditions established beforehand by law (formal aspect).[189]

225. In the instant case, the right to personal liberty cannot be examined without taking into account that most of its alleged victims are children. In other words, a child's right to personal liberty must of necessity take the best interests of the child into account; it is the child's vulnerability that necessitates special measures of protection.

226. In the case *sub judice* the Court observes that both the Commission and the representatives alleged the existence of patterns or systematic practices that violated Article 7 of the American Convention, to the detriment of all the inmates interned in the Center in the period from August 14, 1996, to July 25, 2001. The Commission's contention was that the effect of the practice was, *inter alia,* that inmates remained in preventive detention for long periods of time. The representatives, for their part, argued that it was a systematic practice, contrary to

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[187] *Cf. Case of Maritza Urrutia*, *supra* note 57, para. 66; *Case of Bulacio*, *supra* note 56, para. 129; and *Case of Juan Humberto Sánchez*, *supra* note 154, paragraphs 82-83.

[188] *Cf. Case of the Gómez Paquiyauri Brothers, supra* note 26, para. 82; *Case of Maritza Urrutia*, *supra* note 57, para. 64; and *Case of Juan Humberto Sánchez*, *supra* note 154, para. 77.

[189] *Cf. Case of the Gómez Paquiyauri Brothers, supra* note 26, para. 83; *Case of Maritza Urrutia*, *supra* note 57, para. 65; and *Case of Juan Humberto Sánchez*, *supra* note 154, para. 78.

international standards for the protection of children and involved, *inter alia,* "generalized, abusive and arbitrary" recourse to preventive detention and unwarranted delays in deciding cases. That being the case, the Commission and the representatives reasoned that in the case of these practices alleged to be in violation of international provisions, the burden of proof falls to the State; in other words, it was Paraguay that had to prove that the inmates' right to personal liberty was not violated.

227. Taking account of these general comments concerning the right in question, and the special protection required when children are involved, the Court will now examine whether, given the circumstances of the particular case, the State violated the right to personal liberty of each alleged victim.

228. First and foremost, preventive detention is the most severe measure that can be applied regarding to someone accused of a crime. Therefore, it should be reserved for the most exceptional cases, given the limits imposed by the right to presumption of innocence and the principles of necessity and proportionality that are essential in a democratic society.[190]

229. Preventive detention must strictly conform to the provisions of Article 7(5) of the American Convention: it cannot be for longer than a reasonable time and cannot endure for longer than the grounds invoked to justify it. Failure to comply with these requirements is tantamount to a sentence without a conviction, which is contrary to universally recognized general principles of law.[191]

230. When preventive detention is ordered for children, the rule must be applied with even greater rigor, since the norm should be measures that are alternatives to preventive imprisonment. Those measures might include the following: strict supervision; permanent custody; foster care; removal to a home or educational institution; care, guidance and supervision orders; counseling; probation; education and vocational training programmes and other alternatives to institutional care.[192] The purpose of these alternative measures is to ensure that children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and the offence.[193] This principle is provided for in various international instruments and rules.[194]

231. When, however, preventive detention is deemed necessary in the case of a child, it must be for the shortest period possible, as provided in Article 37.b) of the

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190 *Cf. Case of Suárez Rosero*. Judgment of November 12, 1997. Series C No. 35, para. 77.

191 *Cf. Case of Suárez Rosero*, *supra* note 190, para. 77. See also Rule 13.2 of the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules), adopted by the General Assembly in its resolution 40/33 of 28 November 1985; and Rule 17 of the United Nations Rules for the Protection of Juveniles Deprived of Their Liberty, adopted by the General Assembly in resolution 45/113 of 14 December 1990.

192 *Cf.* Article 40.4 of the Convention on the Rights of the Child.

193 *Supra* note 192.

194 *Cf.* Rule 13.1 of the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules), adopted by General Assembly in resolution 40/33 of 28 November 1985; Rule 17 of the United Nations Rules for the Protection of Juveniles Deprived of Their Liberty, adopted by the General Assembly in resolution 45/113 of 14 December 1990; articles 37 and 40.4 of the Convention on the Rights of the Child; and Article 10.3 of the International Covenant on Civil and Political Rights.

Convention on the Rights of the Child, which provides that States parties shall ensure that:

> No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time [...].

232. From the body of evidence in the present case, it is impossible to discern the manner in which Article 7 of the Convention may have been violated in the case of each individual alleged victim. In order to make a determination as to whether that article was violated, the Court must know the particulars of how preventive detention was used in the case of each individual inmate, in order to then be able to analyze whether each and every Article 7 requirement has been satisfied. As for the Center's inmate population as a whole, whose rights under Article 7 of the Convention both the Commission and the representatives asked the Court to declare violated on the grounds that preventive detention had been applied disproportionately, the Court notes that in the case of some inmates, their conviction was final; others were in preventive detention for crimes like murder and rape. When it examined Article 7 in its Article 50 report, the Commission itself wrote that of the total inmate population at the Center, 93.2% may have had their right to personal liberty violated, but not all the inmates. This Court observes that neither the representatives nor the State provided the information needed to be able to make this determination. The Court is, however, deeply troubled by the State's lack of vigilance or care with regard to children in preventive detention that the facts in this case have shown.

233. Although the Court has frequently used patterns of conduct or practices as a means of evidence to determine that human rights were violated, it has always done so when the finding is supported by other specific pieces of evidence (*supra* para. 217). In the case of Article 7 of the American Convention, the Court needs information on each of the alleged victims, which it does not have in the present case because the parties failed to provide it.

234. This Court therefore finds that it does not have the information it needs to be able to determine whether Article 7 (8.2) of the Convention was violated in the case of the alleged individual victims.

XI

VIOLATION OF ARTICLE 25 IN RELATION TO ARTICLE 1(1) (RIGHT TO JUDICIAL PROTECTION)

Pleadings of the Commission

235. In the case of the violation of Article 25 of the American Convention, in relation to Article 1(1) thereof, the Commission argued as follows:

> a) this article was violated to the detriment of the juveniles interned in the Center in the period between August 14, 1996 and July 25, 2001;

b) the juveniles did not have a simple and prompt recourse to competent judges or courts in the event that their physical, mental and moral integrity, liberty or security was in danger in a juvenile Reeducation Institute;

c) the petition of *habeas corpus filed* on their behalf and granted, was paralyzed for two years, reviewed and then delayed for another year before a ruling was issued, which meant that they did not obtain the "brief and summary" finding that Paraguay's Constitution requires;

d) the writ of *habeas corpus* was ineffective, as the State authorities did not comply with the ruling ordering the transfer of the alleged victims to a proper center, nor were those measures supervised by the court, as the court that granted the writ had ordered;

e) the anachronistic system in place prevented effective supervision of the court ruling and continual review of the sanctions imposed;

f) the remedies attempted to ascertain the authorities' blame for the human rights violations at the Center were ineffective; and

g) the investigations into the cause of the fires, the deaths and the injuries that resulted from those fires produced no concrete findings.

Pleadings of the representatives

236. In the case of Article 25 of the American Convention, in relation to Article 1(1) thereof, the representatives alleged that:

a) the State violated that article of the Convention, read in combination with Article 19 thereof and the corresponding Articles of the Convention on the Rights of the Child, by maintaining a juvenile justice system that violated the guarantees of due process;

b) special measures of protection were needed during the juveniles' cases and the State's discretionary authority should have been restricted;

c) the judicial protection required under Article 25 of the Convention applies not just to differences between adults, but also when settling disputes involving children and adolescents, and to proceedings or procedures for determining their rights or situations;

d) no prompt and effective remedy was available to defend the rights of minors;

e) the State never complied with the court ruling that granted a writ of generic *habeas corpus* (which took five years to get through the judicial system) and ordered that all the alleged victims be taken to a proper detention facility. The situation was particularly serious, since the lives and physical integrity of the juveniles on whose behalf the writ was granted were at stake;

f) the remedies attempted to ascertain the authorities' blame for the human rights violations at the Center were ineffective;

g) there was no effective judicial protection for the deceased alleged victims, for those who sustained burns and injuries and for their next of kin, since the State failed to exhaust all the means at its disposal to conduct a serious investigation and punish those responsible for the human rights violations denounced; and

h) the State is responsible for failing to investigate those responsible for keeping the detention facility in such deplorable condition and those responsible for the torture. In the instant case, the interpretation of Article 25 must take into account the purpose of the Convention on the Rights of the Child, which protects the rights of those persons who, because of their age, do not yet have full legal standing.

Pleadings of the State

237. With regard to Article 25 of the Convention, in relation to Article 1(1) thereof, the State:

a) accepted responsibility for the violation of Article 25(1) of the Convention owing to the ineffectiveness of the constitutional writ of *habeas corpus* that had ordered the juveniles transferred from the Center to a proper facility. It did not, however, accept responsibility for the violation of Article 7 erroneously alleged by the Commission;

b) petitioned the Court to take into consideration that the failure to comply with the court order was because of a lack of means; at the time the ruling was delivered, the State did not have an adequate place to which the inmates from the Center could be transferred;

c) stated that the acknowledgement of the violation of Article 25(1) of the Convention was with regard to the inmates named in Judgment 652 of July 31, 1998, which granted the writ of *habeas corpus;* that judgment also included the persons named in paragraph c) of the *petitum* in the brief answering the application, inasmuch as some of those persons may have been incarcerated in the Center in 1998, the year Judgment 652 was delivered;

d) the Commission's allegation concerning the efficacy of the remedies to ascertain the respective authorities' responsibilities for the human rights violations established in its application is vague since, rather than detail specific cases, it confines itself to making general accusations;

e) agents of the State, each within his particular area of competence, facilitated the investigations necessary to determine the cause of the fires;

f) the Commission did not sufficiently explore the judicial inquiries that were conducted into the events at the Center; the State had provided it with expert evidence, the reports prepared by the Volunteer Fire Brigade of Paraguay, and the court records and prosecution's files. A criminal court judge already settled an investigation, one year after the fact, which is a reasonable period of time. Under the criminal justice system in force at the time, the judge in the February 2000 case decided to close it on the grounds that the author or authors of the fire were not identified; and

g) if no sentences have yet been handed out in the inquiries into the fires, it is because it is materially impossible for the judge to determine who set the fire. A basic rule of constitutional and criminal law holds that "no one may be forced to testify against himself." Naturally, none of the witnesses who were former inmates in Cellblock No. 8 has provided any clues to identify the author or authors of the serious crime.

Considerations of the Court

238. Article 25 of the Convention reads as follows:

> 1. Everyone has the right to simple and prompt recourse, or any other effective recourse, to a competent court or tribunal for protection against acts that violate his fundamental rights recognized by the constitution or laws of the state concerned or by this Convention, even though such violation may have been committed by persons acting in the course of their official duties.
>
> 2. The States Parties undertake:
>
> a. to ensure that any person claiming such remedy shall have his rights determined by the competent authority provided for by the legal system of the state;
>
> b. to develop the possibilities of judicial remedy; and
>
> c. to ensure that the competent authorities shall enforce such remedies when granted.

239. This Court has held that the primary purpose of international protection of human rights is to defend the individual against the arbitrary exercise of State power.[195]

240. Working from the facts proven in the case *sub judice, the* Court must determine whether the petition of generic *habeas corpus* filed on November 12, 1993 on behalf of the inmates in the Center at that time and granted on July 31, 1998, on behalf of 239 inmates in the Center as of that date (*supra* paragraphs 134.27 and 134.28), met the requirements established in Article 25 of the Convention.

241. The State accepted responsibility for the violation of Article 25(1) of the Convention "owing to the ineffectiveness of the constitutional writ of *habeas corpus* that had ordered the juveniles transferred from the Center to a proper facility befitting their dignity as human beings." However, the State acknowledged responsibility only in the case of those persons named in paragraph c) of the *petitum* in the brief answering the application, "inasmuch as some of those persons may have been incarcerated [in the Center] in 1998, the year Judgment 652 was delivered."

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[195] *Cf. Case of Baena Ricardo et al.* , *supra* note 179, para. 78; *Case of the "Five Pensioners", supra* note 55, para. 126; and *Case of the Constitutional Court . Competence.* Judgment of September 24, 1999. Series C No. 55, para. 89.

242. The Court will now proceed to analyze Article 25, based on the proven facts and the State's acknowledgement of responsibility.

243. In Paraguay, the petition of generic *habeas corpus* filed in this case can be used to seek rectification of circumstances that restrict liberty or that threaten personal security; the purpose of that remedy is to protect the rights and guarantees of lawfully detained persons whose predicament is exacerbated by the fact that they are subjected to physical, psychological or moral violence. In the case *sub judice*, the petition of generic *habeas corpus* was not filed in connection with the cases being prosecuted against the inmates to determine the lawfulness of their detention; instead, it was filed with regard to the conditions at the Center at which the inmates were being detained. This remedy, therefore, is one that individuals have a right to invoke under Article 25 of the Convention. The petition of *habeas corpus* described the Center as a "medieval-style prison" that did not meet the minimum standards for sanitation, privacy and hygiene, and was constantly overcrowded, fostering promiscuity and violence. The inmates endured deprivations of all kinds and lived in inhumane conditions.

244. The analysis of the alleged violation of Article 25 of the Convention will be done from two perspectives: a) the effectiveness of the remedy of generic *habeas corpus* filed on November 12, 1993, which includes the speed at which a decision on this petition was forthcoming; and b) the State's compliance with the writ of *habeas corpus.*

a) The effectiveness of the remedy of generic habeas corpus

245. In its Advisory Opinion OC-9/87, the Court held that for a remedy to exist, "it must be truly effective in establishing whether there has been a violation of human rights and in providing redress."[196] Clearly, a remedy will not be "truly effective" if it is not decided within a time frame that enables the violation being claimed to be corrected in time.

246. On the subject of *habeas corpus,* Article 133 of Paraguay's 1992 Constitution provides that *habeas corpus* "proceedings shall be swift, summary and *gratis."* In this regard, Paraguay's own Supreme Court ruled that "inasmuch as this is a constitutional guarantee invoked precisely in order to defend an individual's human rights, it is immediately exigible."

247. It has been established (*supra* para. 134.27) that on November 12, 1993, a petition of generic *habeas corpus* was filed to seek judicial relief against the detention conditions under which the inmates at the Center at that time were living and to petition the court to order them relocated to proper facilities. It has also been established (*supra* para. 134.28) that the Civil and Commercial Law Judge of First Instance, Ninth Rotation, granted the petition of *habeas corpus* on July 31, 1998; in other words, almost five years after it had been filed. By whatever standard is used to determine whether a remedy was swift, the Court can only conclude that the

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[196] *Judicial Guarantees in States of Emergency* (Arts. 27(2), 25 and 8 American Convention on Human Rights). Advisory Opinion OC-9/87 of October 6, 1987. Series A No. 9, para. 24. See also, Case of the "Five Pensioners", *supra* note 55, para. 136; *Case of Cantos, supra* note 59, para. 52; and *Case of Ivcher Bronstein.* Judgment of February 6, 2001. Series C No. 74, paragraphs 136-137.

processing of the petition of *habeas corpus* exceeded any permissible limit. Moreover, given the delay in deciding the petition and inasmuch as some of those on whose behalf it was filed were still being held at the Center when the writ was granted, the petition was ineffective for the very persons it was intended to protect, which constitutes a violation of Article 25(1) of the Convention.

b) The failure to comply with the ruling on the petition of generic habeas corpus

248. Article 25(2)(c) of the Convention establishes the State's obligation "to ensure that the competent authorities shall enforce such remedies when granted."

249. In the instant case, it has been shown (*supra* para. 134.28) that in Final Ruling No. 652, delivered on July 31, 1998, the Civil and Commercial Law Judge of First Instance, Ninth Rotation, granted the petition of generic *habeas corpus* filed on behalf of the inmates at the Center. It read, in part, as follows:

> [...] GRANT the petition of GENERIC *HABEAS CORPUS* filed [...] on behalf of the juveniles identified at [...[this decision, and confined in the 'Col. Panchito López' Juvenile Reeducation Institute.
>
> [...] the Director of that correctional facility, the 'Col. Panchito López' Juvenile Reeducation Institute, the Director of Penal Institutions, and the Ministry of Justice and Labor shall, in accordance with proper procedure, adopt forthwith effective and suitable administrative and budgetary measures to correct the unlawful conditions described [...] which adversely affect the juveniles also named in the preamble, who shall continue their confinement in proper facilities, in accordance with Article 21 of the National Constitution, under penalty of responsibility.
>
> [...] that the authorities and institutions mentioned in the preceding paragraph shall inform this court of the measures taken to comply with the court ruling [...] within no more than thirty days and then periodically every three months, until the ruling has been fully executed, under penalty of law.[197]

250. Those operative paragraphs clearly provided that the pertinent authorities were to adopt "forthwith" all measures necessary to "correct the unlawful conditions" at the Center, on behalf of the inmates interned there at that time. In all likelihood by the time the writ was granted, the inmates at the Center were not the inmates there on the date the petition had been filed. However, subsequent to the ruling, the inmates protected by the writ continued to endure the same unsanitary and overcrowded conditions, without proper health care, ill-fed, under the constant threat of being punished, in an atmosphere of tension, violence, abuse, and unable to effectively enjoy a number of their human rights. So much so that subsequent to issuance of the writ of generic *habeas corpus* the three fires previously described broke out (*supra* paragraphs 134.29, 134.33 and 134.34). In other words, the writ of generic *habeas corpus* was so belated as to be in violation of the law. But that situation was compounded by the failure to comply with the writ, as a result of which the degrading and subhuman conditions under which the inmates at the detention facility lived did not change. The State itself acknowledged as much and stated that the inmates at the Center were not relocated because the State "did not have an adequate place."

251. For all the foregoing reasons, the Court finds that the State did not provide the inmates at the Center with a "simple and prompt recourse" when the petition of generic *habeas corpus* was granted, nor did it provide an effective remedy to the 239

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[197] Ruling of the Civil and Commercial Law Judge of First Instance, Ninth Rotation, S.D. No. 652 of July 31, 1998, which granted the petition of *habeas corpus* filed by the Tekojojá Foundation (file of appendixes to the application, appendix 20, folio 327).

inmates interned in the Center when the court delivered the ruling that granted the petition of *habeas corpus.* It thus violated Article 25 of the American Convention, in relation to Article 1(1) thereof. That violation was compounded by the State's failure to provide the special measures of protection to which the inmates were entitled as children. The list of those inmates is attached to the present Judgment and is part thereof.

XII

ARTICLE 26 OF THE AMERICAN CONVENTION IN RELATION TO ARTICLE 1(1) THEREOF (PROGRESSIVE DEVELOPMENT OF ECONOMIC, SOCIAL, AND CULTURAL RIGHTS)

Pleadings of the Commission

252. The Commission did not allege violation of Article 26 of the American Convention. The Commission was of the view that:

a) as the State contends, the representatives did not allege that the State violated Article 26 of the Convention or Articles XI, XII, XIII and XV of the American Declaration of the Rights and Duties of Man either in its original petition or throughout the approximately five years that the case was before the Commission. The Commission, therefore, never forwarded any such arguments of law to the State, nor were they debated in the Commission's proceedings on the case;

b) if the representatives' pleading is a motion for the Court asserting a separate State violation of Article 26 of the American Convention, then it would not come under the present case, as the procedural opportunity to have filed that motion has already passed; and

c) should the Court deem that the purpose of the invocation of Article 26 of the Convention and the other Articles cited from the American Declaration and from the Convention on the Rights of the Child is to guide the interpretation of Article 19 of the Convention, the Commission would have no objection.

Pleadings of the representatives

253. Concerning Article 26 of the American Convention, the representatives asserted that:

a) Article 26 of the Convention must be studied in relation to Article 19 thereof, Articles XI, XII, XIII and XV of the American Declaration of the Rights and Duties of Man, and Articles 24, 28, 29 and 31 of the Convention on the Rights of the Child;

b) the State failed to comply with its obligation to ensure even the minimum enjoyment of these rights in the case of the juveniles interned in the Center, who were in a highly vulnerable situation;

c) the violation of the right to health is at three levels: first, because the State failed to follow even the minimum standards for hygiene, diet and primary health care that would have helped prevent sickness and disease and keep all the alleged victims in the instant case in a minimum state of health, in keeping with their dignity as human beings; second, because once the inmates became sick, they were not given adequate medical and dental treatment; finally, no special treatment was given to adolescents suffering from mental disorders or addictions;

d) as for the right to education, the State did not provide formal, continuous education programs. There were no trained professionals and budgetary appropriations for the vocational training and literacy classes. What classes were offered were not part of a comprehensive educational program geared to re-educating and rehabilitating the juveniles, since the Center was not properly equipped for a re-education policy to succeed. Juveniles deprived of their liberty are not to be deprived of their right to education and dignity; and

e) concerning the right to rest, to leisure time, to recreation and to a cultural and artistic life, the State failed to offer any program of that kind on a continuing basis and did not foster contacts with family and community. The State did not ensure the inmates' right to rest and recreation and the right to engage in games and recreational activities suited to their age bracket. Instead, the juveniles remained locked in small cells for the bulk of the day, and were allowed out for only two hours a day.

Pleadings of the State

254. The State argued as follows with regard to Article 26 of the Convention:

a) economic, social and cultural rights are not germane to this case, as the Commission pointed out; and

b) when this case was heard in the Commission, the representatives never asserted any Article 26 claims, so that the State must reject them as irrelevant and immaterial, and would respectfully remind the Court of the arguments set forth in its brief of preliminary objections.

Considerations of the Court

255. Within the present judgment, the Court analyzed the issues pertaining to a life with dignity, health, education and recreation in its considerations with regard to Articles 4 and 5 of the Convention, in relation to Articles 19 and 1(1) thereof and Article 13 of the Protocol of San Salvador. This Court therefore deems that to address the matter of Article 26 of the Convention would be redundant.

XIII
REPARATIONS
APPLICATION OF ARTICLE 63(1) OF THE AMERICAN CONVENTION

Obligation to make reparations

256. As stated in the preceding chapters, the Court has found that the State is responsible for violation of Articles 4(1), 5(1), 5(2) and 5(6) of the American Convention, in relation to article 1(1) thereof, and Article 19 when the victims were children, to the detriment of all the inmates at the Center in the period from August 14, 1996 to July 25, 2001 (*supra* para. 176); violation of Article 4(1) of the American Convention in relation to Article 1(1) thereof and in relation to Article 19 when the victims were children, to the detriment of the 12 deceased inmates (s*upra* paragraphs 179, 184 and 186); Articles 5(1) and 5(2) of the American Convention, in relation to Articles 1(1) and 19 thereof, to the detriment of the children injured as a result of the fires (*supra* paragraphs 188 and 190); Article 5(1) of the American Convention, in relation to Article 1(1) thereof, to the detriment of the identified next of kin of the deceased and injured (*supra* para. 193); Articles 2 and 8(1) of the American Convention, in relation to Articles 1(1) and 19 thereof, to the detriment of all the children interned at the Center between August 14, 1996 and July 25, 2001 (*supra* para. 213); and Article 25 of the American Convention, in relation to Article 1(1) thereof, to the detriment of the 239 inmates named in the writ of generic *habeas corpus* (*supra* para. 251).

257. It is the *jurisprudence constante* of this Court that it is a principle of international law that any violation of an international obligation that has caused damage creates a new obligation, which is to adequately redress the harm done.[198] Article 63(1) of the American Convention provides that:

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

258. As this Court has previously stated, Article 63(1) of the American Convention reflects a customary rule that is one of the fundamental principles of contemporary international law regarding the responsibility of States. When a harmful act occurs that is imputable to a State, the latter incurs international responsibility for violation of an international rule and thus incurs a duty to make reparation and put an end to the consequences of the violation.[199]

259. Reparation of the harm caused by the violation of an international obligation requires, whenever possible, full restitution (*restitutio in integrum*), which is to restore the situation as it was prior to the violation. If this is not possible, as in the instant case, the international court must order the adoption of measures to ensure that, in addition to guaranteeing respect for the violated rights, the consequences of the violations are remedied and that compensation is paid for the harm done.[200] 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,

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198 *Cf. Case of the Gómez Paquiyauri Brothers, supra* note 26, para. 187; *Case of the 19 Tradesmen*, *supra* note 26, para. 219; and *Case of Molina Theissen, supra* note 26, párr 39.

199 *Cf. Case of the Gómez Paquiyauri Brothers, supra* note 26, para. 188; *Case of the 19 Tradesmen*, *supra* note 26, para. 220; and *Case of Molina Theissen, supra* note 26, para. 40.

200 *Cf. Case of Bulacio*, *supra* note 14, para. 72; *Case of Juan Humberto Sánchez, supra* note 14, para. 149; and *Case of Las Palmeras. Reparations, supra* note 15, para. 38.

methods and determination of the beneficiaries) are regulated by international law.[201]

260. In many cases of human rights violations, such as the present case, *restitutio in integrum* is not possible. Therefore, taking into account the nature of the right affected and in keeping with the practice of international case law, reparation is made in the form of, *inter alia*, fair pecuniary and non-pecuniary compensation. The State must also adopt whatever positive measures are necessary to ensure that harmful acts such as those involved in the instant case do not recur.[202]

261. As the term suggests, reparations are the measures that will cause the effect of the violations committed to disappear. Their nature and amount depend on the damage caused at both the pecuniary and non-pecuniary level. Reparations cannot involve enrichment or impoverishment of the victim or his heirs.[203] In this regard, any reparations ordered must be consistent with the violations established.[204]

262. In determining reparations in the instant case, the Court must consider the fact that there were children involved who were very poor and whose human rights were grievously violated.

263. Another factor this Court must bear in mind is that in the area of new law, an accusatory criminal justice system has been created in Paraguay that replaced its former inquisitorial system; juveniles in conflict with the law are no longer treated as adults. On November 26, 1998, a new Penal Code entered into force; on June 18, 1998, the Code of Criminal Procedure was enacted, and on November 30, 2001, the Child and Adolescent Code took effect, which describes in detail a special juvenile justice system and juvenile courts (*supra* paragraphs 134.57 and 214).

264. In the administrative area, the Project on Holistic Treatment of High-Risk Juveniles was launched in February 1999; in August 2001, an Inter-institutional Task Force was created to visit the correctional facilities; then in October 2001, the National Service for the Treatment of Juvenile Offenders was established. In addition, changes were made to the Center's physical infrastructure, mainly in 2001; on May 10, 2001, the Itauguá Comprehensive Education Center was certified. The La Salle Comprehensive Education Center was certified in December 2001, but was later closed.

265. The Court appreciates the State's initiatives, evidenced by the above-mentioned reforms (*supra* paragraphs 134.57, 214, 263 and 264), as they are a

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201 *Supra* note 200.

202 *Cf. Case of the Gómez Paquiyauri Brothers, supra* note 26, para. 189; *Case of the 19 Tradesmen*, *supra* note 26, para. 222; and *Case of Molina Theissen*, *supra* note 26, para. 42.

203 *Cf. Case of the 19 Tradesmen*, *supra* note 26, para. 223; *Case of Cantos, supra* note 59, para. 68; and *Case of the Caracazo. Reparations* (Art. 63(1) American Convention on Human Rights). Judgment of August 29, 2002. Series C No. 95, para. 78.

204 *Cf. Case of the Gómez Paquiyauri Brothers*, *supra* note 26, para. 190; *Case of the 19 Tradesmen*, *supra* note 26, para. 223; and *Case of Herrera Ulloa*, *supra* note 29, para. 194.

positive contribution toward bringing the State into compliance with its obligations under Article 19 of the American Convention.

266. Based on the evidence compiled during the case and bearing the above considerations in mind, the Court will now analyze the claims submitted by the Commission and by the representatives in the matter of reparations. It will first determine who the beneficiaries of the reparations are, and then order the measures of reparation aimed at redressing pecuniary and non-pecuniary damages, other forms of reparation and, lastly, the matter of costs and expenses.

A) BENEFICIARIES

267. The Court will now summarize the arguments of the Inter-American Commission, the representatives and the State on who should be regarded as the beneficiaries of any reparations the Court might order.

Pleadings of the Commission

268. The Commission asserted the following with regard to the beneficiaries:

a) all the victims deprived of their liberty at the 'Panchito López' Reeducation Institute in the period from August 14, 1996 to July 25, 2001, must be compensated both individually and collectively;

b) all the victims who perished or were injured in the three fires that the present case involves can be identified; the many children and adolescents deprived of their liberty at the Center at various times can also be identified, as can all the juveniles who were interned at the Center at the time of its permanent closing in July 2001 and later transferred; and

c) the victims are not unidentifiable, as there are a number of ways to identify them individually and personally. Therefore, the Commission reasoned, it is not seeking anonymous reparations, but rather reparations for each and every victim.

Pleadings of the representatives

269. The representatives stated that the beneficiaries of the reparations are all the inmates who were interned in the Center at any time in the period between August 14, 1996 and July 25, 2001. However, in the case of the twelve deceased inmates, the beneficiaries would be their next of kin.

Pleadings of the State

270. The State asked the Court to consider as beneficiaries only those persons named in the application and in the Court's order of June 21, 2002, in keeping with the Court's Rules of Procedure and jurisprudence. Consequently, should reparations be ordered, they would be on an individual basis; the State argued that under Article 33(1) of the Court's Rules of Procedure, the Commission was to have identified the alleged victims by name.

Considerations of the Court

271. The Court will now proceed to determine which persons are to be regarded as an "injured party," in the terms of Article 63(1) of the American Convention and who shall be entitled to the reparations that the Court orders, both for pecuniary and, where appropriate, non-pecuniary damages.

272. To begin with, the injured parties are the deceased inmates, as victims of the violation of the right recognized in Article 4(1) of the American Convention, in relation to Article 1(1) thereof, and also in relation to Article 19 when the victims are children; all those inmates at the Center between August 14, 1996 and July 25, 2001, as victims of the violation of the rights protected in Articles 4(1), 5(1), 5(2) and 5(6) of the American Convention, in relation to Article 1(1) thereof, and also in relation to Article 19 of the Convention, when the victims in question are children; the children injured in the fires, as victims of the violation of the rights upheld in Articles 5(1) and 5(2) of the American Convention, in relation to Articles 1(1) and 19 thereof; the identified next of kin of the deceased and injured inmates, as victims of violation of the right protected in Article 5(1) of the American Convention, in relation to Article 1(1) thereof; all the children interned at the Center between August 14, 1996 and July 25, 2001, as victims of the violation of the rights recognized in Articles 2 and 8(1) of the American Convention, in relation to Articles 1(1) and 19 thereof; and the 239 inmates named in the writ of generic *habeas corpus,* as victims of the violation of the right recognized in Article 25 of the American Convention, in relation to Article 1(1) thereof. All these persons shall be entitled to the reparations set by the Court for pecuniary and non-pecuniary damages.

273. This Court observes that when a contentious case is being litigated before the Court, the interested party must decide who the beneficiary or beneficiaries will be. Therefore, the Court is not prepared to order compensation for any potential next of kin of the inmates who were victims of human rights violations but were not identified.

274. One hundred percent (100%) of the reparations for *lucrum cessans* and non-pecuniary damages for the deceased inmates will go to the next of kin identified by the representatives, all of whom are parents of deceased inmates. The amount will be divided equally between father and mother if both parents are identified; if only one is named, he or she will receive the full amount of the compensation. If one of the parents has died, his or her share will go to the surviving parent.

275. If both parents have been identified but are deceased, the amount that would have gone to them as the deceased inmate's heirs will be distributed according to the domestic inheritance laws.

276. If the identity of the parents is unknown, the compensation owed to the deceased will also be distributed according to the domestic inheritance laws.

277. The compensation that rightfully belongs to the identified next of kin of the deceased former inmates shall be paid to each one in his or her capacity as victim. If one of the identified parents has died, the part that would have gone to that deceased parent will go the surviving parent. In the event that both parental victims are deceased, the amount that would have gone to them will be distributed according to domestic inheritance laws.

278. The names of the identified next of kin of the deceased inmates whom the Court will regard as victims are as follows:

DECEASED FORMER INMATE	NEXT OF KIN
1. Elvio Epifanio Acosta Ocampos	a) Feliciana Ocampos (mother) b) Asunción Acosta (father)
2. Marco Antonio Jiménez	a) Ignacia Giménez (mother) b) Teódulo Barboza (father)
3. Diego Walter Valdez	a) Felipa Valdez (mother) b) Luis Ávila (father)
4. Sergio Daniel Vega Figueredo	a) Rosalía Figueredo (mother) b) Dionicio Vega (father)
5. Sergio David Poletti Domínguez	a) Teofista Domínguez (mother) b) Guillermo Augusto Poletti (father)
6. Mario del Pilar Álvarez Pérez	a) María Teresa de Jesús Pérez (mother)
7. Juan Alcides Román Barrios	a) María Estela Barrios (mother)
8. Carlos Raúl de la Cruz	a) Fidelina de la Cruz (mother)
9. Benito Augusto Adorno	a) Rosalinda Giménez Duarte (mother) b) Benito Isidoro Adorno (father)

279. Compensation owed to the identified parents of injured former inmates shall be delivered to each in his or her capacity as victim. If one of the identified parents is deceased, his or her portion will go the surviving parent.

280. Should both parents identified as victims be deceased, each one's portion will be distributed according to domestic inheritance laws.

281. This Court notes that Ms. Dirma Monserrat Peña, sister of injured former inmate Pedro Iván Peña, was the latter's only next of kin that the representatives identified. Therefore, the Court orders that any compensation owed for the damages she suffered will be made according to the parameters used in the case of identified parents of injured former inmates. In the event she is deceased, the compensation she would have been owed will be distributed according to domestic inheritance laws.

282. The names of the identified next of kin of the injured former inmates that the Court regards as victims are:

INJURED FORMER INMATE	NEXT OF KIN
1. Abel Achar Acuña	a) Apolinaria Acuña (mother) b) Roque Achar (father)
2. José Milciades Cañete Chamorro	a) María Estella Chamorro (mother) b) Andrés Cañete B. (father)
3. Arsenio Joel Barrios Báez	a) María Rosa Virginia Baes (mother)
4. Alfredo Duarte Ramos	a) Concepción Ramos viuda de Duarte (mother)
5. Sergio Vincent Navarro Moraes	a) Viviana Moraes (mother) b) Leoncio Navarro (father)
6. Raúl Esteban Portillo	a) Silvia Portillo Martínez (mother)
7. Ismael Méndez Aranda	a) Eristrudis o Edith Aranda (mother) b) Tranquilino Méndez (father)
8. Pedro Iván Peña	a) Dirma Monserrat Peña (sister)
9. Jorge Daniel Toledo	a) Emiliana Toledo (mother)
10. Sixto Gonzáles Franco	a) Flora Franco (mother) b) Jerónimo Gonzáles (father)
11. Antonio Delgado	a) Cristina Delgado (mother) b) Antonio Vera (father)
12. Eduardo Vera	a) Felipa Vera (mother)

B) PECUNIARY DAMAGES

283. In this section of the judgment the Court will decide the matter of pecuniary damages, which includes the loss or reduction of the victims' income, any expenses incurred by reason of the facts in the case, and the consequential pecuniary damages that have some causal nexus to the facts in the case *sub judice,* for which the Court will set an amount that will seek to compensate for the consequences that the violations established in this judgment have had on the estates of the victims.[205] In determining compensation, the Court will take into account the evidence compiled in this case, the Court's own jurisprudence and the claims that the Commission, the representatives and the State have made.

Pleadings of the Commission

284. In the case of compensation for pecuniary damages, the Commission observed that:

> a) absent proof to the contrary, the State has already covered the *damnum emergens,* as it paid various funeral expenses in the case of deceased victims; it also paid the medical expenses of the children injured in the fires; and
>
> b) in order to determine the *lucrum cessans* in a just and equitable manner, the Court must consider the wages that the victims ceased to receive as a consequence of the State's violation of their right to life, their ages at the time of their deaths, the number of years before they would have reached the average life expectancy in Paraguay, and the minimum wage currently being paid. The Commission considered that upon their release, the deceased inmates would have joined the work force; inasmuch as at the time of their deaths the inmates were not working, the Commission reasoned that the Court should fix a sum in equity to determine the compensation owed to each

[205] *Cf. Case of the Gómez Paquiyauri Brothers*, *supra* note 26, para. 205; *Case of the 19 Tradesmen*, *supra* note 26, para. 236; and *Case of Molina Theissen*, *supra* note 26, para. 39.

deceased inmate, taking each victim's particular circumstances into account. Finally, the Commission was of the view that some monetary amount should be set to compensate for post-fire consequences sustained by the children injured in those fires, such as permanent injuries that will have an impact on future job performance.

Pleadings of the representatives

285. The representatives argued that according to the testimony of certain victims, the State did not pay some of the medical and burial expenses. However, no documents were provided to support the *damnum emergens* and *lucrum cessans* because, the representatives stated, it was difficult to contact the victims and their next of kin. On the other hand, the next of kin or juveniles who were contacted do not recall what expenses they incurred and have no records of those expenses. The representatives therefore asked that for every juvenile who was interned in the Center at any time during the period between August 14, 1996 and July 25, 2001, the Court set an amount for pecuniary damages that takes the following considerations into account:

a) in the case of the deceased, the age at time of death, the average minimum wage in Paraguay between 1996 and 2001, and the number of years before they would reach the average life expectancy in Paraguay. They also reasoned that when fixing the total compensation, the missed opportunity should also be factored in, which is an allowance for the chance that each fatality might have increased the earnings he was receiving from the trade or vocation that he was performing at the time of his death, and the potential impact that this might have had on his future wages;

b) in the case of the injured, an amount that takes into account consequences such as permanent injuries or disorders which will have an impact on each victim's future job performance, based on case-by-case assessments done by the interdisciplinary team of professionals attending to the victim's medical and psychological care;

c) in the case of all juveniles who were interned in the Center at any time between August 14, 1996 and July 25, 2001, the inhuman conditions they were forced to endure and the impact they will have on their future job performance. On that basis, they requested a grant in equity to compensate for the impact that time spent in that "infernal place" is having and will have on their lives and that takes into account every day spent imprisoned; and

d) in the case of the inmates transferred to adult prisons, the representatives were seeking a grant in equity for every day each juvenile spent in an adult prison, owing to the impact that experience will have on his future job performance.

Pleadings of the State

286. The State's argument was that inasmuch as it had not violated the right to life (Article 4 of the Convention) –save for the responsibility it acknowledged in the death of juvenile Benito Augusto Adorno- or the right to personal liberty (Article 7 of the Convention), or the right to a fair trial (Article 8 of the Convention), in relation to Article 1(1) of the Convention, no international responsibility can be attributed to it

for violation of the provisions of the Convention or of any other international instrument. Hence, it has no obligation to make reparations. In the case of the physical and psychological integrity of the inmates who were injured in the fires and who remained incarcerated –either at the Center or some other detention facility-for the period of time that the case was with the Commission, it asked the Court to allow a period of time for evidence to be taken to determine whether or not the State was diligent in its attempt to prevent the injuries sustained in the fires from becoming permanent disabilities that could have an impact on job performance or affect mental or emotional health.

Considerations of the Court

287. Based on the information received during the course of this proceeding, the facts proven, the violations established and its *jurisprudence constante,* the Court finds that the compensation for pecuniary damages in the instant case should include the following:

a) Lucrum cessans

288. In the case of the income that deceased inmates Elvio Epifanio Acosta Ocampos, Marco Antonio Jiménez, Diego Walter Valdez, Sergio Daniel Vega Figueredo, Sergio David Poletti Domínguez, Mario de Pilar Álvarez Pérez, Juan Alcides Román Barrios, Antonio Damián Escobar Morinigo, Carlos Raúl de la Cruz, Benito Augusto Adorno, Richard Daniel Martínez and Héctor Ramón Vázquez ceased to receive, the Court considers that no definite fact has been established that would enable the Court to determine what activity or trade those inmates would have eventually practiced. This category of damages must be calculated on the basis of a definite injury that is sufficiently substantiated to find that the injury likely occurred.[206] Given the circumstances of the instant case, the evidence is not sufficient to prove the income lost. The Court will, therefore, grant an award in equity that uses the minimum wage in Paraguay to calculate the lost income.

289. Given the considerations set out in the preceding paragraph and taking into account, *inter alia,* the circumstances of the specific case,[207] life expectance in Paraguay and the legal minimum salary in Paraguay,[208] the Court grants in equity the sum of US$ 40,000.00 (forty thousand United States dollars) or its equivalent in the national currency of the State, to each of the deceased victims. Those amounts shall go to the next of kin of the twelve deceased inmates, as stipulated at paragraphs 279 to 281 of this Judgment.

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[206] *Cf. Case of Molina Theissen, supra* note 26, para. 57; *Case of Bulacio*, *supra* note 56, para. 84; and *Case of Castillo Páez, Reparations* (Art. 63(1) American Convention on Human Rights). Judgment of November 27, 1998. Series C No. 43, para. 74.

[207] *Cf. Case of the 19 Tradesmen*, *supra* note 26, para. 240; *Case of Juan Humberto Sánchez. Interpretation of the Judgment on Preliminary Objections, Merits and Reparations.* (Art. 67 American Convention on Human Rights). Judgment of November 26, 2003. Series C No. 102, para. 56; and *Case of Bulacio*, *supra* note 56, para. 150.

[208] C*f. Case of the 19 Tradesmen*, *supra* note 26, para. 240; *Case of the Caracazo*, *supra* note 203, para. 88; *and Case of the "Street Children" (Villagrán Morales et al.). Reparations* (Art. 63(1) American Convention on Human Rights). Judgment of May 26, 2001. Series C No. 77, para. 79.

290. As for the *lucrum cessans* of the injured former inmates,[209] all of whom were juveniles, this Court considers that it is possible to infer that the injuries these victims sustained meant, at the least, temporary work disability. But no evidence has been provided that would enable the Court to determine what trade or vocation these children might have practiced had they not been injured. In the absence of any other proof that the parties might have furnished, the Court will compute the injured inmates' lost income on the basis of the percentage of the body over which burns were sustained, as it regards this as the most objective criterion possible. It therefore grants in equity compensation for lost income in the following amounts: US$ 15,000 (fifteen thousand United States dollars) to those injured victims who sustained injuries on 20% or more of their bodies; US$ 13,000.00 (thirteen thousand United States dollars) for whose who sustained burns over 10% but less than 20% of their bodies; US$ 11,000.00 (eleven thousand United States dollars) for who sustained injuries from 5% but less than 10% of their bodies, and US$ 9,000.00 (nine thousand United States dollars) to those who sustained injuries over less than 5% of their body.

291. For some of the injured former inmates, this Court has the following figures for the percentage of the body on which burns were sustained:

Injured former inmate	Percentage of the injury
1. Juan Carlos Zarza Viveros	36 %
2. Miguel Ángel Coronel Ramírez	35 %
3. Sergio Vincent Navarro Moraez	35 %
4. Alberto David Martínez	34 %
5. Miguel Ángel Martínez	34 %
6. Raúl Esteban Portillo	30 %
7. César Fidelino Ojeda Acevedo	30 %
8. Pedro Iván Peña	27 %
9. Ever Ramón Molinas Zárate	25 %
10. Arsenio Joel Barrios Báez	22 %
11. Francisco Ramón Adorno	20 %
12. Alfredo Duarte Ramos	18 %
13. Abel Achar Acuña	17 %
14. Osvaldo Mora Espinola	16 %
15. Ismael Méndez Aranda	16 %
16. Hugo Antonio Vera Quintana	14 %
17. Clemente Luis Escobar González	7 %
18. Juan Ramón Lugo	5 %
19. Carlos Román Feris Almirón	5 %
20. Pablo Ayala Azola	4 %
21. Julio César García	4 %
22. José Amado Jara	3 %
23. Rolando Benítez	2 %

[209] Abel Achar Acuña, José Milcíades Cañete Chamorro, Ever Ramón Molinas Zárate, Arsenio Joel Barrios Báez, Alfredo Duarte Ramos, Sergio Vincent Navarro Moraez, Ismael Méndez Aranda, Osvaldo Daniel Sosa, Walter Javier Riveros Rojas, Osmar López Verón, Miguel Ángel Coronel Ramírez, César Fidelino Ojeda Acevedo, Heriberto Zarate, Francisco Noé Andrada, Jorge Daniel Toledo, Pablo Emmanuel Rojas, Sixto Gonzáles Franco, Antonio Delgado, Claudio Coronel Quiroga, Clemente Luis Escobar González, Julio César García, José Amado Jara Fernández, Alberto David Martínez, Miguel Ángel Martínez, Osvaldo Mora Espinola, Hugo Antonio Vera Quintana, Juan Carlos Zarza Viveros, Eduardo Vera, Cándido Ulises Zelaya Flores, Hugo Olmedo, Oscar Rafael Aquino Acuña, Nelson Rodríguez, Demetrio Silguero, Aristides Ramón Ortiz Bernal, Carlos Raúl Romero Giacomo, Carlos Román Feris Almirón, Pablo Ayala Azola, Juan Ramón Lugo and Rolando Benítez.

292. As this Court does not have figures for 19 of the injured former inmates,[210] it will assume that they sustained burns over less than 5% of their body and award them the corresponding sum.

b) Damnum emergens

293. The Commission reported that the State had covered the *damnum emergens* (*supra* para. 284.a), and the representatives did not provide evidence to support their counterclaim. The foregoing notwithstanding, the body of evidence in the present case contains various statements[211] demonstrating that the State did not in fact cover all the medical expenses of Francisco Ramón Adorno, or all the medical and funeral expenses of Sergio David Poletti Domínguez and Mario del Pilar Álvarez Pérez. The State covered only a portion of those expenses. As no specific evidence was offered concerning the supposed expenses, this Court deems it appropriate to grant in equity the sum of US$ 1,000.00 (one thousand United States dollars) to the next of kin of each of the above-named former inmates. That total amount will be distributed in the following manner and go to the persons shown to have covered the expenses in question:

i) the total for the medical expenses of victim Francisco Ramón Adorno is to be paid to his mother, who must appear before the competent authority and identify herself;

ii) the total amount for the medical and funeral expenses of victim Sergio David Poletti Domínguez is to be divided, in equal parts, between Ms. Teofista Domínguez and Guillermo Augusto Poletti, the victim's parents; and

iii) the total amount for the medical and funeral expenses of victim Mario del Pilar Álvarez Pérez is to be paid to his mother, Mrs. María Teresa de Jesús Pérez.

294. Based on the foregoing, the Court establishes compensation for the pecuniary damages caused by the violations found in the present Judgment in the following amounts:

COMPENSATION FOR PECUNIARY DAMAGES			
Deceased inmates			
Victim	***Lucrum cessans***	***Damnum emergens***	**Total**
1) Antonio Damián Escobar Morinigo	US$ 40,000.00		US$ 40,000.00
2) Benito Augusto Adorno	US$ 40,000.00		US$ 40,000.00
3) Carlos Raúl de la Cruz	US$ 40,000.00		US$ 40,000.00
4) Diego Walter Valdez	US$ 40,000.00		US$ 40,000.00
5) Elvio Epifanio Acosta Ocampos	US$ 40,000.00		US$ 40,000.00

[210] Antonio Delgado, Aristides Ramón Ortiz Bernal, Carlos Raúl Romero Giacomo, Claudio Coronel Quiroga, Demetrio Silguero, Eduardo Vera, Francisco Noé Andrada, Heriberto Zarate, Hugo Olmedo, Jorge Daniel Toledo, José Milciades Cañete Chamorro, Nelson Rodríguez, Osmar López Verón, Osvaldo Daniel Sosa, Pablo Emmanuel Rojas, Oscar Rafael Aquino Acuña, Sixto Gonzáles Franco, Cándido Ulises Zelaya Flores and Walter Javier Riveros Rojas.

[211] *Cf*. Statements made in the presence of a person authorized by law to authenticate documents and statements (affidavits) by Francisco Ramón Adorno and María Teresa de Jesús Pérez and the testimony given by Ms. Teofista Domínguez Riveros before this Court on May 3, 2004.

6) Héctor Ramón Vázquez	US$ 40,000.00		US$ 40,000.00
7) Juan Alcides Román Barrios	US$ 40,000.00		US$ 40,000.00
8) Marco Antonio Jiménez	US$ 40,000.00		US$ 40,000.00
9) Mario del Pilar Álvarez Pérez	US$ 40,000.00	US$ 1,000.00, to be paid to Mrs. María Teresa de Jesús Pérez.	US$ 41,000.00
10) Richard Daniel Martínez	US$ 40,000.00		US$ 40,000.00
11) Sergio Daniel Vega Figueredo	US$ 40,000.00		US$ 40,000.00
12) Sergio David Poletti Domínguez	US$ 40,000.00	US$ 1,000.00, To be divided in equal parts between Teofista Domínguez and Guillermo Augusto Poletti.	US$ 41,000.00
TOTAL PECUNARY DAMAGES IN THE CASE OF THE DECEASED			**US$ 482,000.00**

COMPENSATION FOR PECUNIARY DAMAGES
Injured inmates

Victim	*Lucrum cessans*	*Damnum emergens*	Total
1. Abel Achar Acuña	US$ 13,000.00		US$ 13,000.00
2. Alberto David Martínez	US$ 15,000.00		US$ 15,000.00
3. Alfredo Duarte Ramos	US$ 13,000.00		US$ 13,000.00
4. Antonio Delgado	US$ 9,000.00		US$ 9,000.00
5. Aristides Ramón Ortiz Bernal	US$ 9,000.00		US$ 9,000.00
6. Arsenio Joel Barrios Báez	US$ 15,000.00		US$ 15,000.00
7. Carlos Raúl Romero Giacomo	US$ 9,000.00		US$ 9,000.00
8. Carlos Román Feris Almirón	US$ 11,000.00		US$ 11,000.00
9. César Fidelino Ojeda Acevedo	US$ 15,000.00		US$ 15,000.00
10. Claudio Coronel Quiroga	US$ 9,000.00		US$ 9,000.00
11. Clemente Luis Escobar González	US$ 11,000.00		US$ 11,000.00
12. Demetrio Silguero	US$ 9,000.00		US$ 9,000.00
13. Eduardo Vera	US$ 9,000.00		US$ 9,000.00
14. Ever Ramón Molinas Zárate	US$ 15,000.00		US$ 15,000.00
15. Francisco Noé Andrada	US$ 9,000.00		US$ 9,000.00
16. Francisco Ramón Adorno	US$ 15,000.00	US$ 1,000.00, to be paid to the mother	US$ 16,000.00
17. Heriberto Zarate	US$ 9,000.00		US$ 9,000.00
18. Hugo Antonio Vera Quintana	US$ 13,000.00		US$ 13,000.00
19. Hugo Olmedo	US$ 9,000.00		US$ 9,000.00
20. Ismael Méndez Aranda	US$ 13,000.00		US$ 13,000.00
21. Jorge Daniel Toledo	US$ 9,000.00		US$ 9,000.00
22. José Amado Jara Fernández	US$ 9,000.00		US$ 9,000.00
23. José Milciades Cañete Chamorro	US$ 9,000.00		US$ 9,000.00
24. Juan Carlos Zarza Viveros	US$ 15,000.00		US$ 15,000.00
25. Juan Ramón Lugo	US$ 11,000.00		US$ 11,000.00
26. Julio César García	US$ 9,000.00		US$ 9,000.00
27. Miguel Ángel Martínez	US$ 15,000.00		US$ 15,000.00
28. Miguel Ángel Coronel Ramírez	US$ 15,000.00		US$ 15,000.00
29. Nelson Rodríguez	US$ 9,000.00		US$ 9,000.00
30. Osmar López Verón	US$ 9,000.00		US$ 9,000.00
31. Osvaldo Daniel Sosa	US$ 9,000.00		US$ 9,000.00
32. Osvaldo Mora Espinola	US$ 13,000.00		US$ 13,000.00
33. Pablo Ayala Azola	US$ 9,000.00		US$ 9,000.00
34. Pablo Emmanuel Rojas	US$ 9,000.00		US$ 9,000.00
35. Pedro Iván Peña	US$ 15,000.00		US$ 15,000.00
36. Oscar Rafael Aquino Acuña	US$ 9,000.00		US$ 9,000.00
37. Raúl Esteban Portillo	US$ 15,000.00		US$ 15,000.00
38. Rolando Benítez	US$ 9,000.00		US$ 9,000.00
39. Sergio Vincent Navarro Moraez	US$ 15,000.00		US$ 15,000.00
40. Sixto Gonzáles Franco	US$ 9,000.00		US$ 9,000.00
41. Cándido Ulises Zelaya Flores	US$ 9,000.00		US$ 9,000.00
42. Walter Javier Riveros Rojas	US$ 9,000.00		US$ 9,000.00
TOTAL PECUNIARY DAMAGES IN THE CASE OF THE INJURED INMATES			**US$ 471,000.00**

TOTAL PECUNIARY DAMAGES	**US$ 953,000.00**

C) NON-PECUNIARY DAMAGES

295. The Court will now consider the adverse consequences of the facts in this case that are neither financial nor asset-related. Non-pecuniary damages can include the pain and suffering caused to the immediate victims and their next of kin, the harm done to the values that the individuals cherish most, as well as non-pecuniary changes in the circumstances of the victim or the victim's family. As no exact monetary equivalent can be assigned to non-pecuniary damages, to fully redress the harm done to the victims non-pecuniary damages can only be compensated in two ways: first, by paying a sum of money or providing goods or services that have a monetary value, which the Court determines using its discretion and in equity; second, by other means whose purpose is to exact from the State a commitment to efforts to prevent similar events from ever happening again.

Pleadings of the Commission

296. The Commission reasoned that in order to determine moral damages in the instant case, the Court should consider such factors as the seriousness of the violations and the emotional suffering experienced by the victims and their next of kin. The Commission argued that the loss of a loved one was not the only suffering that caused non-pecuniary damages; it was also the inhumane detention conditions, the offensive treatment and the ever-present sense of vulnerability that one felt because of being housed in adult prisons, because of the fires and because one lacked the means to defend oneself properly. All these conditions caused extreme pain and suffering, not just to the victims but to their next of kin as well, who shared their loved ones' suffering. The Commission therefore petitioned the Court:

a) to order the State to pay, in equity, moral damages to the next of kin of the inmates who died. The Commission also asked that the Court take into account the following: the suffering caused by the kind of painfully slow death that burns sustained in a fire can cause; the suffering the next of kin experienced knowing that their children were in the custody of the State when they died of burns sustained in the fires; the inmates who were injured in each of the fires; and each and every inmate interned in the Center, because of the suffering, anguish and indignities they were forced to endure;

b) to order the establishment of a special reparations fund for the victims of the Center, in consideration of the massive breach of rights that the center's very existence caused. The Commission maintained that the purpose of that fund should be to finance educational programs, job-training programs and psychological and medical assistance for all the children and adolescents who were unlawfully and arbitrarily deprived of their liberty at the center; and

c) in the case of the victims who were housed at the 'Panchito López' facility between August 14, 1996 and July 25, 2001, who were neither injured nor killed in the fires and were not sent to adult prisons, to order the State to compensate them for the inhuman conditions they were forced to endure during their time at the Center. Because it is difficult to quantify this reparation in monetary terms, the Commission asked the Court to fix an amount in equity for each victim.

Pleadings of the representatives

297. The representatives asserted that the pain and suffering of the victims and their next of kin were evident. They reasoned as follows:

a) the children endured the inhumane detention conditions, the indignities of their treatment and the constant threat of danger, as they were housed in adult penal institutions. They also suffered the after-effects of the successive fires in which inmates were injured and burned. The representatives therefore asked the Court to order, in equity, a sum to compensate for the "severe psychological impact," the "protracted and complex trauma", and the devastating consequences that all the children experienced due to the detention conditions, torture and abuse, which left them with feelings of bitterness, resentment, humiliation, depression, handicapped, a sense of powerlessness, vulnerability and violence;

b) the State neither conducted an inquiry nor promptly punished those responsible for the human rights violations that occurred; and

c) because of the difficulties in making contact with the former inmates and their next of kin, the representatives were of the view that the amount that the Court ordered should take into account the kinship with the children who were detained at the center. In the case of Teofista Domínguez, Felipa Valdez, Dionicio Vega and Rosalía Figueredo, the representatives asked the Court to fix compensation based on their testimony before the Court.

Pleadings of the State

298. The State's argument was that inasmuch as it had not violated the right to life (Article 4 of the Convention) –save for the responsibility it acknowledged in the death of the juvenile Benito Augusto Adorno- or the right to personal liberty (Article 7 of the Convention), or the right to a fair trial (Article 8 of the Convention), in relation to Article 1(1) of the Convention, no international responsibility can be attributed to it for violation of the provisions of the Convention or of any other international instrument. Hence, it has no obligation to make reparations.

Considerations of the Court

299. Time and time again, international case law has established that the judgment constitutes, *per se*, a form of reparation.[212] However, owing to the circumstances of the instant case, the suffering caused to the persons declared as victims in the instant case, the altered circumstances of the injured former inmates and the next of kin of the deceased and injured inmates, and the other consequences of a non-material or non-pecuniary nature that they suffered, the Court considers that based on the principle of equity, compensation for non-pecuniary damages is in order.[213]

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[212] *Cf. Case of the Gómez Paquiyauri Brothers, supra* note 26, para. 215; *Case of the 19 Tradesmen*, *supra* note 26, para. 247; and *Case of Maritza Urrutia, supra* note 57, para. 166.

[213] *Supra* note 212.

300. As the Court has held, the non-pecuniary damage inflicted upon the victims is obvious, since it is only human nature that any person subject to, inter alia, treatment that violates his right to personal integrity and his right to live in dignity, will experience profound suffering, moral anguish, fear and a sense of insecurity, and no evidence is required to reach this conclusion.[214]

301. The inmates at the center endured inhuman detention conditions, which included, *inter alia,* overpopulation, violence, crowding, poor diet, lack of proper medical attention and torture. They were confined in filthy cells, with few sanitary facilities and had little opportunity to engage in recreational activities. It was against this backdrop of inhuman detention conditions at the center that nine inmates[215] died and 42[216] were injured as a result of fires; another child [217] died from a bullet wound. Subsequently, two children[218] who had been transferred from the center to the Emboscada adult penitentiary died from wounds inflicted by a sharp instrument.

302. This Court considers that their suffering is all the worse when one considers that the vast majority of the victims were children and the State had special obligations regarding to them, over and above those it has regarding to adults.[219]

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303. Taking into account the various facets of the damages claimed by the Commission and the State and applying the foregoing inferences, the Court sets, in equity, the value of the compensation for non-pecuniary damages, as shown in the table below (*infra* para. 309), based on the following parameters:

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[214] *Cf. Case of the Gómez Paquiyauri Brothers, supra* note 26, para. 217; *Case of the 19 Tradesmen*, *supra* note 26, para. 248; and *Case of Maritza Urrutia, supra* note 57, para. 168.

[215] Elvio Epifanio Acosta Ocampos, Marco Antonio Jiménez, Diego Walter Valdez, Sergio Daniel Vega Figueredo, Sergio David Poletti Domínguez, Mario del Pilar Álvarez Pérez, Juan Alcides Román Barrios, Antonio Damián Escobar Morinigo and Carlos Raúl de la Cruz.

[216] Abel Achar Acuña, José Milciades Cañete Chamorro, Ever Ramón Molinas Zárate, Arsenio Joel Barrios Báez, Alfredo Duarte Ramos, Sergio Vincent Navarro Moraez, Raúl Esteban Portillo, Ismael Méndez Aranda, Pedro Iván Peña, Osvaldo Daniel Sosa, Walter Javier Riveros Rojas, Osmar López Verón, Miguel Ángel Coronel Ramírez, César Fidelino Ojeda Acevedo, Heriberto Zarate, Francisco Noé Andrada, Jorge Daniel Toledo, Pablo Emmanuel Rojas, Sixto Gonzáles Franco, Francisco Ramón Adorno, Antonio Delgado, Claudio Coronel Quiroga, Clemente Luis Escobar González, Julio César García, José Amado Jara Fernández, Alberto David Martínez, Miguel Angel Martínez, Osvaldo Mora Espinola, Hugo Antonio Vera Quintana, Juan Carlos Zarza Viveros, Eduardo Vera, Cándido Ulises Zelaya Flores, Hugo Olmedo, Oscar Rafael Aquino Acuña, Nelson Rodríguez, Demetrio Silguero and Aristides Ramón Ortiz Bernal, Carlos Raúl Romero Giacomo, Carlos Román Feris Almirón, Pablo Ayala Azola, Juan Ramón Lugo and Rolando Benítez.

[217] Benito Augusto Adorno.

[218] Richard Daniel Martínez and Héctor Ramón Vázquez.

[219] *Cf. Case of the "Street Children" (Villagrán Morales et al.)*, *supra* note 208, para. 91.b); and *Juridical Condition and Human Rights of the Child*, *supra* notes 150, paragraphs 54, 60, and 93.

a) in arriving at a figure for the compensation owed to the deceased inmates for the non-pecuniary damages they suffered,[220] the Court has considered that these victims suffered inhuman prison conditions; most of these victims were children who died violent deaths while in the custody of the State. The conditions at the center caused the children fear, anguish, desperation, and a sense of powerlessness, as the situation in which they found themselves was unremitting and in all likelihood they had no hope that their lot would change in the near term. This Court has also weighed the particularly traumatic circumstances of their deaths and the fact that the majority of the deceased did not die immediately, but instead were racked with terrible pain. In the case of the injured inmates as well,[221] the Court has considered the inhuman prison conditions of their internment, the severity of the injuries they sustained as a result of the fires, and that with the major injuries they sustained, their lives were in many respects unalterably changed from the normal life they might otherwise have lived; and

b) in determining the compensation owed to the identified next of kin of the deceased and injured inmates, whom this Court has declared to be victims, this Court must take account of the suffering that they have endured as a direct consequence of the inmates' injuries and/or deaths. These next of kin have experienced profound suffering and pain, detrimental to their mental and moral integrity. Moreover, the events that they had to endure caused them great pain, a sense of powerlessness, insecurity, grief and frustration, which has profoundly altered their circumstances and their family and social relations, representing a serious blow to their lifestyle.

304. For non-pecuniary damages sustained by the nine inmates who died in or as a result of the first fire, this Court awards compensation, in equity, in the amount of US$65,000.00 (sixty-five thousand United States dollars); in the cases of Benito Augusto Adorno, Héctor Ramón Vázquez and Richard Daniel Martínez, whose deaths were not attributable to the fires, the Court orders compensation for non-material damages in the amount of US$ 50,000.00 (fifty thousand United States dollars).

305. One of the criteria the Court used to compute the compensation owed to the injured former inmates was the percentage of the body that sustained burns. For these victims, the Court is awarding non-pecuniary damages, in equity, in the following amounts: US$ 50,000.00 (fifty thousand United States dollars) to whose who sustained burns over 30% or more of their body; US$ 45,000.00 (forty-five thousand United States dollars) to those who sustained burns over an area ranging from 20% but less than 30%; US$ 40,000.00 (forty thousand United States dollars)

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[220] Elvio Epifanio Acosta Ocampos, Marco Antonio Jiménez, Diego Walter Valdez, Sergio Daniel Vega Figueredo, Sergio David Poletti Domínguez, Mario del Pilar Álvarez Pérez, Juan Alcides Román Barrios, Antonio Damián Escobar Morinigo, Carlos Raúl de la Cruz, Benito Augusto Adorno, Richard Daniel Martínez and Héctor Ramón Vázquez.

[221] Abel Achar Acuña, José Milciades Cañete Chamorro, Ever Ramón Molinas Zárate, Arsenio Joel Barrios Báez, Alfredo Duarte Ramos, Sergio Vincent Navarro Moraez, Raúl Esteban Portillo, Ismael Méndez Aranda, Pedro Iván Peña, Osvaldo Daniel Sosa, Walter Javier Riveros Rojas, Osmar López Verón, Miguel Ángel Coronel Ramírez, César Fidelino Ojeda Acevedo, Heriberto Zarate, Francisco Noé Andrada, Jorge Daniel Toledo, Pablo Emmanuel Rojas, Sixto Gonzáles Franco, Francisco Ramón Adorno, Antonio Delgado, Claudio Coronel Quiroga, Clemente Luis Escobar González, Julio César García, José Amado Jara Fernández, Alberto David Martínez, Miguel Angel Martínez, Osvaldo Mora Espinola, Hugo Antonio Vera Quintana, Juan Carlos Zarza Viveros, Eduardo Vera, Cándido Ulises Zelaya Flores, Hugo Olmedo, Oscar Rafael Aquino Acuña, Nelson Rodríguez, Demetrio Silguero, Aristides Ramón Ortiz Bernal, Carlos Raúl Romero Giacomo, Carlos Román Feris Almirón, Pablo Ayala Azola, Juan Ramón Lugo and Rolando Benítez.

to those who sustained burns over an area ranging from 10% but less than 20% of their body; US$30,000.00 (thirty thousand United States dollars) to those who sustained burns over an area ranging from 5% but less than 10% of their body, and US$ 22,000.00 to those whose burns cover less than 5% of their body. In the case of some children, the Court has already ascertained what percentage of their body sustained burns (*supra* para. 291). The records appear in the body of evidence in the present case.

306. With no information on 19 injured former inmates,[222] this Court assumes that they sustained burns over less than 5% of their body and assigns them the corresponding amount.

307. As for the identified next of kin of the deceased inmates, this Court considers US$ 25,000.00 (twenty-five United States dollars) for each parent to be an appropriate sum as compensation in equity for non-pecuniary damages. In the case of the identified next of kin of the inmates injured in or as a result of the fires, this Court considers the sum of US$ 15,000.00 (fifteen thousand United States dollars) to be an appropriate sum as compensation in equity for non-pecuniary damages.

308. The terms of the provisions set forth in paragraphs 274 to 282 of this Judgment shall be applied to pay the compensation.

309. Based on the above, the Court has determined the sums in question to be as follows:

Non-pecuniary damages Deceased former inmates and their next of kin	
Deceased former inmates and their next of kin	**Amount**
1. Elvio Epifanio Acosta Ocampos (deceased)	US$ 65,000.00
Feliciana Ocampos (mother)	US $25,000.00
Asunción Acosta (father)	US $25,000.00
2. Marco Antonio Jiménez (deceased)	US$ 65,000.00
Ignacia Giménez (mother)	US $25,000.00
Teódulo Barboza (father)	US $25,000.00
3. Diego Walter Valdez (deceased)	US$ 65,000.00
Felipa Valdez (mother)	US $25,000.00
Luis Ávila (father)	US $25,000.00
4. Sergio Daniel Vega Figueredo (deceased)	US$ 65,000.00
Rosalía Figueredo (mother)	US $25,000.00
Dionicio Vega (father)	US $25,000.00
5. Sergio David Poletti Domínguez (deceased)	US$ 65,000.00
Teofista Domínguez (mother)	US $25,000.00
Guillermo Augusto Poletti (father)	US $25,000.00
6. Mario del Pilar Álvarez Pérez (deceased)	US$ 65,000.00
María Teresa de Jesús Pérez (mother)	US $25,000.00
7. Juan Alcides Román Barrios (deceased)	US$ 65,000.00
María Estela Barrios (mother)	US $25,000.00

[222] Antonio Delgado, Aristides Ramón Ortiz Bernal, Carlos Raúl Romero Giacomo, Claudio Coronel Quiroga, Demetrio Silguero, Eduardo Vera, Francisco Noé Andrada, Heriberto Zarate, Hugo Olmedo, Jorge Daniel Toledo, José Milciades Cañete Chamorro, Nelson Rodríguez, Osmar López Verón, Osvaldo Daniel Sosa, Pablo Emmanuel Rojas, Oscar Rafael Aquino Acuña, Sixto Gonzáles Franco, Cándido Ulises Zelaya Flores and Walter Javier Riveros Rojas.

8. Antonio Damián Escobar Morinigo (deceased)	US$ 65,000.00
9. Carlos Raúl de la Cruz (deceased)	US$ 65,000.00
Fidelina de la Cruz (mother)	US $25,000.00
10. Benito Augusto Adorno (deceased)	US$ 50,000.00
Rosalinda Giménez Duarte (mother)	US $25,000.00
Benito Isidoro Adorno (father)	US $25,000.00
11. Richard Daniel Martínez (deceased)	US$ 50,000.00
12. Héctor Ramón Vázquez (deceased)	US$ 50,000.00
TOTAL	US$ 1,110,000.00

Non-pecuniary damages **Injured former inmates and their next of kin**	
Injured former inmates and their next of kin	**Non-pecuniary damages**
1. Abel Achar Acuña (injured)	US$ 40,000.00
Apolinaria Acuña (mother)	US$ 15,000.00
Roque Achar (father)	US$ 15,000.00
2. José Milciades Cañete Chamorro (injured)	US$ 22,000.00
María Estella Chamorro (mother)	US$ 15,000.00
Andrés Cañete B. (father)	US$ 15,000.00
3. Ever Ramón Molinas Zárate (injured)	US$ 45,000.00
4. Arsenio Joel Barrios Báez (injured)	US$ 45,000.00
María Rosa Virginia Baes (mother)	US$ 15,000.00
5. Alfredo Duarte Ramos (injured)	US$ 40,000.00
Concepción Ramos viuda de Duarte (mother)	US$ 15,000.00
6. Sergio Vincent Navarro Moraez (injured)	US$ 50,000.00
Viviana Moraes (mother)	US$ 15,000.00
Leoncio Navarro (father)	US$ 15,000.00
7. Raúl Esteban Portillo (injured)	US$ 50,000.00
Silvia Portillo Martínez (mother)	US$ 15,000.00
8. Ismael Méndez Aranda (injured)	US$ 40,000.00
Eristrudis o Edith Aranda (mother)	US$ 15,000.00
Tranquilino Méndez (father)	US$ 15,000.00
9. Pedro Iván Peña (injured)	US$ 45,000.00
Dirma Monserrat Peña (sister)	US$ 15,000.00
10. Osvaldo Daniel Sosa (injured)	US$ 22,000.00
11. Walter Javier Riveros Rojas (injured)	US$ 22,000.00
12. Osmar López Verón (injured)	US$ 22,000.00
13. Miguel Ángel Coronel Ramírez (injured)	US$ 50,000.00
14. César Fidelino Ojeda Acevedo (injured)	US$ 50,000.00
15. Heriberto Zarate (injured)	US$ 22,000.00
16. Francisco Noé Andrada (injured)	US$ 22,000.00
17. Jorge Daniel Toledo (injured)	US$ 22,000.00
Emiliana Toledo (mother)	US$ 15,000.00
18. Pablo Emmanuel Rojas (injured)	US$ 22,000.00
19. Sixto Gonzáles Franco (injured)	US$ 22,000.00
Flora Franco (mother)	US$ 15,000.00
Jerónimo Gonzáles (father)	US$ 15,000.00
20. Francisco Ramón Adorno (injured)	US$ 45,000.00
21. Antonio Delgado (injured)	US$ 22,000.00
Cristina Delgado (mother)	US$ 15,000.00

Antonio Vera (father)	US$ 15,000.00
22. Claudio Coronel Quiroga (injured)	US$ 22,000.00
23. Clemente Luis Escobar González (injured)	US$ 30,000.00
24. Julio César García (injured)	US$ 22,000.00
25. José Amado Jara Fernández (injured)	US$ 22,000.00
26. Alberto David Martínez (injured)	US$ 50,000.00
27. Miguel Ángel Martínez (injured)	US$ 50,000.00
28. Osvaldo Mora Espinola (injured)	US$ 40,000.00
29. Hugo Antonio Vera Quintana (injured)	US$ 40,000.00
30. Juan Carlos Zarza Viveros (injured)	US$ 50,000.00
31. Eduardo Vera (injured)	US$ 22,000.00
Felipa Vera (mother)	US$ 15,000.00
32. Cándido Ulises Zelaya Flores (injured)	US$ 22,000.00
33. Hugo Olmedo (injured)	US$ 22,000.00
34. Oscar Rafael Aquino Acuña (injured)	US$ 22,000.00
35. Nelson Rodríguez (injured)	US$ 22,000.00
36. Demetrio Silguero (injured)	US$ 22,000.00
37. Aristides Ramón Ortiz Bernal (injured)	US$ 22,000.00
38. Carlos Raúl Romero Giacomo (injured)	US$ 22,000.00
39. Carlos Román Feris Almirón (injured)	US$ 30,000.00
40. Pablo Ayala Azola (injured)	US$ 22,000.00
41. Juan Ramón Lugo (injured)	US$ 30,000.00
42. Rolando Benítez (injured)	US$ 22,000.00
TOTAL	US$ 1,596,000.00

TOTAL FOR NON-PECUNIARY DAMAGES	**US$ 2,706,000.00**

D) OTHER FORMS OF REPARATION

310. The Court will now examine those measures of satisfaction sought to redress the non-pecuniary damages.[223] These measures seek, *inter alia,* acknowledgement of the victims' dignity, relief for the human rights involved, and a commitment to avoid a recurrence of violations such as those in the instant case.[224]

Pleadings of the Commission

311. Given the special characteristics of the instant case, the Commission reasoned that non-pecuniary measures of reparation are essential. It therefore petitioned the Court to order comprehensive reparations, which would cover adequate reparations for the victims deprived of their liberty at the Center, and provide sufficient guarantee that these violations will not recur in the future. In order for this comprehensive reparation to materialize, the Commission asked the Court to order the State:

a) to ensure that the rights of the children and adolescents deprived of their liberty are respected;

b) to amend its laws on imprisonment of children and adolescents, to conform to international standards on this subject, and to ensure full compliance on the part of all the authorities. It specifically pointed out that

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[223] *Cf. Case of the Gómez Paquiyauri Brothers, supra* note 26, para. 223; *Case of the 19 Tradesmen*, *supra* note 26, para. 253; and *Case of Molina Theissen*, *supra* note 26, para. 77.

[224] *Cf. Case of the Gómez Paquiyauri Brothers, supra* note 26, para. 223; *Case of Myrna Mack Chang, supra* note 40, para. 268; and *Case of Bulacio*, *supra* note 56, para. 105.

the State should make deprivation of liberty a measure reserved for exceptional cases and a last resort;

c) to implement programs that make a clear distinction between the innocent and the convicted; when depriving juveniles of their liberty, take into account their status as minors;

d) to build centers like the Itauguá and La Salle facilities, that are not overpopulated and are suitable for housing inmates;

e) as an urgent measure, to immediately segregate children and adolescents currently in adult prisons;

f) to create a special legal aid fund to handle the court cases of children and adolescents and endowed with the authority and resources necessary to stage their legal defense;

g) to review all trials prosecuted against the victims who were interned in the center, pursuant to Article 249, paragraphs b) and c) of the Child and Adolescent Code that recently entered into force; to report the findings of that review within six months' time; and

h) to investigate, try and punish those prison officials and personnel who, by action or omission, allowed or enabled the three fires, and those officials and personnel who designed, implemented and enforced the institutional policy that allowed children and adolescents to be held at the center under inhumane conditions.

Pleadings of the representatives

312. The representatives asserted that the measures of satisfaction and guarantees of non-repetition are especially relevant, given the circumstances and seriousness of the instant case. They therefore petitioned the Court to order that the State:

a) adapt the entire system for depriving children and adolescents of their liberty to fit the Convention's requirements. They stated that while the new code represents significant progress, it still does not fully meet international standards. The representatives therefore asked that the State set up an arrangement, in partnership with civil society organizations and experts on the subject, to study both the current laws and practices and to propose the necessary changes to create a system that is fully consistent with international standards;

b) build juvenile Reeducation Institutes that fit internationally recognized standards;

c) implement proper programs in juvenile Reeducation Institutes;

d) separate those awaiting or standing trial from those already convicted;

e) train officers of the court, the police, prison officials and personnel, and all those who are somehow involved in the juvenile detention system, to instruct them in international standards and principles on that subject;

f) review all trials prosecuted against the victims, pursuant to the provisions of Article 249, paragraphs b and c of the Child and Adolescent Code that recently entered into force;

g) determine which of the victims are still interned, where they are and the conditions of their detention;

h) immediately release all juveniles who were at the center and who are still in preventive detention;

i) immediately transfer any minors in adult prisons to proper facilities; if those facilities are not available, immediately release the minors in adult prisons;

j) commute or reduce the sentences of anyone who was at the center and who is now convicted and serving time in other penal institutions; in reducing the sentence now being served, shorten it by however much time the juvenile spent in preventive detention at the center in the period from August 1996 to July 2001;

k) make available comprehensive medical and psychological assistance, to be provided by an interdisciplinary team of professionals experienced in the care and treatment of juveniles with these kinds of injuries and needs;

l) provide the surgery or other treatment that those injured in the fire require, as per the finding of the interdisciplinary team. They requested immediate surgery for Raúl Esteban Portillo and Pedro Iván Peña;

m) implement a special and exclusive education program for the adolescents who had been interned at the center, to treat the particular problems caused by the absence of a re-education policy and to reverse the situation;

n) issue a public acknowledgement of State responsibility, in which the President of the Republic of Paraguay delivers a public apology to all the children who were interned at the center and their next of kin;

o) publish the Court's judgment in two Paraguayan newspapers with wide circulations;

p) prepare and disseminate a video declaring that those sent to the center were juveniles unjustly and arbitrarily detained; that these juveniles ended up in prison because of poverty, where they were "savagely and brutally" tortured and abused; and

q) investigate the facts in the instant case thoroughly, completely and impartially so as to identify those responsible for the violations denounced in the instant case and try and punish them in accordance with the law.

Pleadings of the State

313. The State asserted that:

a) concerning the representatives' claim seeking presidential acknowledgment of the facts, the State has already made significant acknowledgements of responsibility in the instant case, which will become public in the Court's judgment;

b) the fact that the instant case has reached the Inter-American Court and that the State has admitted its failings with regard to the care of juveniles in conflict with the law and deprived of their liberty, will fully and sufficiently satisfy the representatives' claim demanding public acknowledgment; and

c) it agreed to the request that the guards be trained, with the proviso that at the present time there are no prison guards, but rather educators trained under the European Community's AMAR Project. It further asserted that training is a priority component of the socio-educational model being applied at the CEI Itauguá and other centers, although with limited budgetary and human resources, and that civil society organizations such as RONDAS and RAICES have been involved in the training process.

Considerations of the Court

314. The Court will now proceed to determine those measures of satisfaction that seek to redress the non-pecuniary damages and ensure that cases similar to the instant case will never happen again.

a) Publication of the pertinent parts of the Court's judgment

315. As it has in previous cases,[225] the Court finds that as one measure of satisfaction, the State is to publish, at least once, within six months from the date of notification of the present Judgment and in the Official Gazette and another widely circulated national newspaper, both the section titled "Facts Proven" in this Judgment -absent the corresponding footnotes- and the operative part of this Judgment.

b) Public act acknowledging international responsibility and announcing a State policy on juveniles in conflict with the law that is consistent with Paraguay's international commitments

316. Within six months, the pertinent State institutions, in partnership with civil society, are to prepare and map out a State policy for the short, medium and long term on the subject of juveniles in conflict with the law. That policy is to be fully in keeping with Paraguay's international commitments. It is to be announced by high-ranking State authorities, in a public act wherein the State also acknowledges Paraguay's international responsibility for the deplorable conditions at the center between August 14, 1996 and July 25, 2001.

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[225] *Cf. Case of the Gómez Paquiyauri Brothers, supra* note 26, para. 235; *Case of the 19 Tradesmen*, *supra* note 26, para. 233; and *Case of Molina Theissen*, *supra* note 26, para. 86.

317. The State's policy must include, *inter alia,* strategies, appropriate measures and the earmarking of the resources needed so that children awaiting or standing trial can be housed separately from those already convicted, and for the establishment of education programs and full medical and psychological services for all children deprived of their liberty.

c) Medical and psychological treatment

318. Some of the former inmates injured in the fires and some next of kin of deceased and injured inmates who either testified before the Court or gave affidavits in the presence of a person legally authorized to certify documents, stated that they were suffering physical after-effects and/or psychological problems as a result of the facts in this case. The Court deems it appropriate to order some measure intended to ease the psychological suffering of all those former inmates who were at the center in the period from August 14, 1996 to July 25, 2001, whose names appear on the list presented by the Commission on November 19, 2002 (*supra* paragraphs 36 and 176) and the physical and/or psychological problems of the former inmates injured in the fires,[226] as well as medical treatment of the psychological suffering that the next of kin of the deceased and injured are experiencing as a result of the violations their loved ones suffered, if they want and need such treatment.[227]

319. To help make reparations for these damages, the Court is ordering the State to provide, free of charge and through its own specialized health institutions, the psychological treatment that the persons mentioned in the preceding paragraph require, as well as needed medical treatment for the former inmates injured in the fires. Treatment should include, *inter alia,* any medications and surgery that they may need. When psychological treatment is provided, special care must be taken to consider each individual's particular circumstances and needs. In other words, treatment may be in groups, families or individuals, as decided in each case after an individual evaluation is made. To that end, the State is to create a committee to evaluate their physical and psychological condition, and the measures that each individual requires.

320. The Tekojojá Foundation should be actively involved in this committee. Should it decline or find itself unable to undertake the task, the State will have to identify another nongovernmental organization to replace it. Within six months, the State is to inform this Court of the formation of the committee.

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[226] Abel Achar Acuña, José Milciades Cañete Chamorro, Ever Ramón Molinas Zárate, Arsenio Joel Barrios Báez, Alfredo Duarte Ramos, Sergio Vincent Navarro Moraez, Raúl Esteban Portillo, Ismael Méndez Aranda, Pedro Iván Peña, Osvaldo Daniel Sosa, Walter Javier Riveros Rojas, Osmar López Verón, Miguel Ángel Coronel Ramírez, César Fidelino Ojeda Acevedo, Heriberto Zarate, Francisco Noé Andrada, Jorge Daniel Toledo, Pablo Emmanuel Rojas, Sixto Gonzáles Franco, Francisco Ramón Adorno, Antonio Delgado, Claudio Coronel Quiroga, Clemente Luis Escobar González, Julio César García, José Amado Jara Fernández, Alberto David Martínez, Miguel Angel Martínez, Osvaldo Mora Espinola, Hugo Antonio Vera Quintana, Juan Carlos Zarza Viveros, Eduardo Vera, Cándido Ulises Zelaya Flores, Hugo Olmedo, Oscar Rafael Aquino Acuña, Nelson Rodríguez, Demetrio Silguero, Aristides Ramón Ortiz Bernal, Carlos Raúl Romero Giacomo, Carlos Román Feris Almirón, Pablo Ayala Azola, Juan Ramón Lugo and Rolando Benítez.

[227] *Cf. Case of the Gómez Paquiyauri Brothers, supra* note 26, para. 207; *Case of the 19 Tradesmen*, *supra* note 26, para. 277; and *Case of Myrna Mack Chang, supra* note 40, para. 253.2).

d) Education and vocational assistance program for all former inmates of the center

321. This Court orders, as a measure of satisfaction, that within six months the State provides vocational assistance and a special education program for former inmates of the center who were interned there in the period between August 14, 1996 and July 25, 2001.

e) A resting place for the remains of Mario del Pilar Álvarez Pérez

322. The Court observes that in the affidavit she gave in the presence of a person legally authorized to certify documents, Mrs. María Teresa de Jesús Pérez, mother of deceased former inmate Mario del Pilar Álvarez Pérez, requested "a vault for her son's body," inasmuch as his remains will be removed from the cemetery as she does not have the money to pay the expense. Therefore, this Court orders that within 15 days, the State is to provide Mrs. María Teresa de Jesús Pérez with a place in a mausoleum near her residence where she can lay her son's remains to rest.

323. As for the other claims seeking reparations, the Court considers that the present Judgment is, *per se,* a form of reparation.[228]

324. The Court is concerned by the fact that when she gave her affidavit in the presence of a person authorized by law to certify documents, Ms. Dirma Monserrat Peña, sister of former inmate Pedro Iván Peña, expressed fear that reprisals would be taken against her and/or her family. Former inmates Pedro Iván Peña and Raúl Esteban Portillo expressed similar fears when answering a questionnaire (*supra,* paragraphs 48, 72 and 840). The Court believes it is imperative that the State take particular care to ensure the life, integrity and safety of those persons and their families and provide them with the protection they need against anyone, taking into account the circumstances of the instant case.

XIV
COSTS AND EXPENSES

Pleadings of the Commission

325. The Commission petitioned the Court that, once it has heard the representatives, it order the Paraguayan State to pay the costs incurred at the national level in processing the cases that the victims or their representatives prosecuted in the domestic courts, and the expenses incurred at the international level in pursuing their case with the Commission and then with the Court, provided the representatives duly prove the expenses incurred.

Pleadings of the representatives

326. The representatives sought to recover a total of US$ 40,237.42 (forty thousand two hundred thirty-seven dollars and forty-two cents, United States currency) for the costs and expenses incurred in their quest for justice in the instant case, at the national and international levels. Specifically, they requested the following amounts:

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[228] *Cf. Case of the Gómez Paquiyauri Brothers, supra* note 26, para. 215; *Case of the 19 Tradesmen*, *supra* note 26, para. 247; and *Case of Maritza Urrutia, supra* note 57, para. 166.

a. US$ 10,000.00 (ten thousand United States dollars) for the expenses and costs incurred by the Tekojojá Foundation to bring the case to the inter-American system, and to file the petition of generic *habeas corpus* that began in 1993 and was granted in 1998, and

b. US$ 30,237.42 (thirty thousand two hundred thirty-seven dollars and forty-two cents, United States currency) as reimbursement of the expenses that CEJIL incurred to litigate the case before the inter-American system.

Pleadings of the State

327. The State asked that the Court order each party to bear its own costs and expenses. As for the claims made by the representatives, the State asserted that:

a) the Tekojojá Foundation's claim seeking reimbursement of the costs and expenses of its work on the domestic front, specifically for filing the petition of generic *habeas corpus,* should not be considered, as the Foundation should go to the domestic courts to claim costs and expenses;

b) the Tekojojá's claim seeking reimbursement of expenses allegedly incurred at the international level is not duly substantiated;

c) the expenses the Foundation incurred at the international level are not itemized and not supported by proper documentation; consequently, the presumption is that they never existed;

d) no proof is offered of the Foundation's participation in the hearings conducted before the Commission; therefore, the State is not obliged to pay for costs and expenses associated with that case; and

e) the State finds it "odd" that CEJIL is seeking to recover costs and expenses that its representatives incurred to participate in the hearings conducted at the Commission, as both CEJIL and the Commission are headquartered in Washington. The State added that it had no knowledge of CEJIL executives traveling to Asunción to participate in the friendly settlement process or for any other purpose. Consequently, the State asked the Court to deny the claim seeking costs and expenses in the instant case.

Considerations of the Court

328. As the Court has stated on previous occasions,[229] costs and expenses are included under the concept of reparation embodied in Article 63(1) of the American Convention, because the activities carried out by the next of kin of the victim with the aim of attaining justice, both under domestic and international jurisdiction, entail disbursements which should be compensated when the State is found to be internationally responsible by means of a condemnatory judgment. As regards its reimbursement, it is for the Court to prudently assess its scope, including expenses incurred before the authorities under domestic jurisdiction and those incurred in the course of the proceedings before the inter-American system, bearing in mind the circumstances of the specific case and the nature of international jurisdiction for the

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[229] *Cf. Case of the Gómez Paquiyauri Brothers, supra* note 26, para. 242; *Case of the 19 Tradesmen*, *supra* note 26, para. 283; and *Case of Molina Theissen*, *supra* note 26, para. 95.

protection of human rights. This assessment can be based on the principle of fairness and take into account the expenses declared by the parties, insofar as their *quantum* is reasonable.

329. In the matter of recognition of costs and expenses, legal assistance to the victims does not begin at the reparations phase; instead, it begins when the case is before the domestic courts and continues through the successive stages of the inter-American system for the protection of human rights, in other words, the proceedings before the Commission and before the Court. For purposes of the instant case, costs also begin with the attempts to get the case before the domestic courts and proceedings before the two bodies at the international level: the Commission and the Court.[230]

330. In the instant case, the Court deems it fair and just to order, in equity, the following sums for costs and expenses: the sum of US$ 5,000.00 (five thousand United States dollars) or its equivalent in the State's national currency, which amount is to be paid to the Tekojojá Foundation for its role in filing the petition of generic *habeas corpus* and the petition filed with the Inter-American Commission on Human Rights; and the sum of US$ 12,500.00 (twelve thousand five hundred United States dollars) or its equivalent in the State's national currency, which is to be paid to the Center for Justice and International Law (CEJIL) for litigating the case before the Inter-American Commission and the Inter-American Court. The Court has decided that the sums in question are to go directly to the two organizations in question, owing to the absence of a single representative for all the parties and because the victims are so many in number and so widely scattered.

XV
MANNER OF COMPLIANCE

331. To comply with the present Judgment, the State is to pay the compensation (*supra* paragraphs 294 and 309) and reimburse the costs and expenses (*supra* para. 330) within one year of the date of this Judgment's notification. The State has six months to comply with the measures ordered involving publication of the Judgment (*supra* para. 315), the public act of acknowledgment of international responsibility (*supra* para. 316), the formation of the committee (*supra* para. 320), and the special education and vocational assistance program (supra para. 321). The medical and psychological treatment ordered (*supra* paragraphs 318 and 319) is to begin immediately upon the formation of the committee. Within 15 days, the State must comply with the measure ordering a place for the remains of Mario del Pilar Álvarez Pérez (*supra* para. 322).

332. Payment of the compensations ordered for the victims will be done in accordance with paragraphs 271 to 282 of the present Judgment.

333. The payments for reimbursement of costs and expenses incurred in steps taken by the representatives under domestic jurisdiction and in the international proceedings before the inter-American system for the protection of human rights will be made to said representatives (*supra* para. 330).

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[230] *Cf. Case of the Gómez Paquiyauri Brothers, supra* note 26, para. 243; *Case of the 19 Tradesmen*, *supra* note 26, para. 284; and *Case of Molina Theissen*, *supra* note 26, para. 96.

334. The State can fulfill its pecuniary obligations by means of a payment in United States dollars or in an equivalent amount of the State's national currency, using for the respective calculation the exchange rate between both currencies at the New York exchange the day before the payment. The bank investment will be in United States dollars in keeping with the terms of paragraphs 335 and 336 of this Judgment.

335. If for any reason attributable to the beneficiaries of the compensations, they are unable to receive them within the stipulated one-year period from the date of notification of the present Judgment, the State shall deposit the respective amount in favor of said beneficiaries in a bank account or certificate of deposit, at a sound financial institution, in United States dollars and under the most favorable financial terms allowed by banking practice and law. If after ten years the compensation has not been claimed, the amount will be returned to the State, with the interest earned.

336. In the case of the compensation ordered for the beneficiaries who are minors, the State will apply the corresponding amount toward a bank investment, in their name, in a sound Paraguayan financial institution, in United States dollars. The investment is to be made within one year, under the most favorable terms allowed under banking practice and law, and for as long as the beneficiaries are minors. The beneficiaries may withdraw the investment when they reach the age of majority or when, for the sake of the child's best interests or by order of a competent judicial authority, earlier withdrawal is authorized. If after ten years from the date on which the beneficiaries attain the age of majority, the compensation is still not claimed, the amount will be returned to the State with the interest earned.

337. The amounts awarded in the present Judgment as compensation for pecuniary and non-pecuniary damages, and costs and expenses may not be subject to, reduced by or conditional upon any existing or future fiscal considerations. They must, therefore, be paid to the beneficiaries in full, i.e., in the exact amount stipulated in the Judgment.

338. Should the State fall into arrears, it shall pay interest on the amount owed, which will be the banking arrearage interest rate in effect in Paraguay.

339. In keeping with its usual practice, the Court reserves the right to exercise its authority to oversee full compliance with this Judgment and will declare the case closed once the State has fully complied with the present Judgment. Within one year of the date of notification of this Judgment, Paraguay shall submit an initial report to the Court on the measures adopted to comply with this Judgment.

XVI
OPERATIVE PARAGRAPHS

340. Now therefore,

THE COURT

unanimously

DECIDES

1. To dismiss the State's preliminary objections claiming a legal defect in the filing of the application and failure to claim violation of Article 26 of the American Convention at the proper stage in the proceedings.

2. Given the State's withdrawal of its preliminary objection claiming *litis pendencia,* to consider that preliminary objection withdrawn.

3. To continue taking cognizance of the instant case, and

DECLARES,

unanimously that:

4. The State violated the rights to life and to humane treatment, recognized in Articles 4(1), 5(1), 5(2) and 5(6) of the American Convention on Human Rights, in relation to Article 1(1) thereof and, where the victims were children, also in relation to Article 19 thereof, to the detriment of all the inmates at the center between August 14, 1996 and July 25, 2001, as set forth in paragraphs 176 and 190 of the present Judgment.

5. The State violated the right to life, recognized in Article 4(1) of the American Convention on Human Rights, in relation to Article 1(1) thereof and, where the victims were children, also in relation to its Article 19, to the detriment of the 12 deceased inmates, as set forth in paragraphs 179, 184, 186 and 190 of the present Judgment.

6. The State violated the right to humane treatment, recognized in Articles 5(1) and 5(2) of the American Convention, in relation to Articles 1(1) and 19 thereof, to the detriment of the children injured as a result of the fires; and the right to humane treatment recognized in Article 5(1) of the Convention, in relation to its Article 1(1), to the detriment of the identified next of kin of the deceased and injured inmates, all as set forth in paragraphs 188, 190 and 193 of the present Judgment.

7. The State failed to comply with its duty to adopt domestic legislative measures and violated the right to a fair trial recognized, respectively, in Articles 2 and 8(1) of the American Convention, in relation to Articles 1(1) and 19 thereof, to the detriment of all the children interned at the Center in the period from August 14, 1996 to July 25, 2001, as set forth in paragraph 213 of the present Judgment.

8. The State violated the right to judicial protection, recognized in Article 25 of the American Convention, in relation to Article 1(1) thereof, to the detriment of the 239 inmates named in the writ of generic *habeas corpus,* as set forth in paragraph 251 of the present Judgment.

AND ORDERS,

Unanimously, that:

9. This Judgment constitutes, *per se,* a form of reparation, as set forth in paragraphs 299 and 323 of the present Judgment.

10. The State is to publish, at least once, within six months from the date of notification of the present Judgment and in the Official Gazette and another widely circulated national newspaper, both the section titled "Facts Proven" in this Judgment -absent the corresponding footnotes- and the operative part of this Judgment, in the terms set forth in paragraph 315 of the present Judgment.

11. In consultation with civil society and within six months' time, the State is to carry out a public act of acknowledgement of international responsibility and issue a declaration setting forth a short-, medium- and long-term State policy on the matter of children in conflict with the law that fully comports with Paraguay's international commitments. That policy must:

a) be presented by high-ranking State officials in a public ceremony wherein Paraguay's responsibility for the substandard detention conditions at the center between August 14, 1996 and July 25, 2001 is acknowledged; and

b) plan, *inter alia,* strategies and other appropriate measures and the allocation of the resources needed so that children deprived of their liberty are separated from adults; so that children awaiting or standing trial are separated from convicted inmates; and in order to create education programs and comprehensive medical and psychological treatment programs for all children deprived of their liberty.

12. The State must provide psychological treatment to all persons who were inmates at the center in the period from August 14, 1996 to July 25, 2001; medical and psychological treatment to the former inmates injured in the fires, and psychological treatment to the next of kin of the injured and deceased inmates, as set forth in paragraphs 318 to 320 of the present Judgment.

13. The State must provide vocational guidance and a special education program geared to those who had been inmates at the center at any time during the period between August 14, 1996 and July 25, 2001, as set forth in paragraph 321 of the present Judgment.

14. Within 15 days of the date of notification of this Judgment, the State must provide Mrs. María Teresa de Jesús Pérez with a place in a mausoleum, near her home, where she can lay her sons remains to rest, as set forth in paragraph 322 of the present Judgment.

15. The State must take particular care to ensure the life, personal integrity and safety of the persons who gave affidavits and their next of kin and must provide them with protection against anyone, taking into account the circumstances of this case, in the terms set forth in paragraph 324 of the present Judgment.

16. The State must pay pecuniary damages totaling US$ 953,000.00 (nine hundred fifty-three thousand United States dollars) or the equivalent in the State's national currency, as set forth in paragraphs 288 to 294 of the present Judgment, divided as follows:

a) to each of the deceased inmates Elvio Epifanio Acosta Ocampos, Marco Antonio Jiménez, Diego Walter Valdez, Sergio Daniel Vega Figueredo, Sergio David Poletti Domínguez, Mario del Pilar Álvarez Pérez, Juan Alcides Román Barrios, Antonio Damián Escobar Morinigo, Carlos Raúl de la Cruz, Benito Augusto Adorno, Richard Daniel Martínez and Héctor Ramón Vázquez, the sum of US$ 40,000.00 (forty thousand United States dollars) or the equivalent in the State's national currency, in the terms set forth in paragraphs 288, 289 and 294 of the present Judgment;

b) to Juan Carlos Zarza Viveros, Miguel Ángel Coronel Ramírez, Sergio Vincent Navarro Moraez, Alberto David Martínez, Miguel Ángel Martínez, Raúl Esteban Portillo, César Fidelino Ojeda Acevedo, Pedro Iván Peña, Ever Ramón Molinas Zárate, Arsenio Joel Barrios Báez and Francisco Ramón Adorno, the sum of US$15,000.00 (fifteen thousand United States dollars) each or the equivalent in the State's national currency, in the terms set forth in paragraphs 290, 291 and 294 of the present Judgment;

c) to Alfredo Duarte Ramos, Abel Achar Acuña, Osvaldo Mora Espinola, Ismael Méndez Aranda and Hugo Antonio Vera Quintana, the sum of US$ 13,000.00 (thirteen thousand United States dollars) each or the equivalent in the State's national currency, as set forth in paragraphs 290, 291 and 294 of the present Judgment;

d) to Clemente Luis Escobar González, Juan Ramón Lugo and Carlos Román Feris Almirón, the sum of US$ 11,000.00 (eleven thousand United States dollars) each or the equivalent in the State's national currency, in the terms set forth in paragraphs 290, 291 and 294 of the present Judgment;

e) to Pablo Ayala Azola, Julio César García, José Amado Jara Fernández, Rolando Benítez, Antonio Delgado, Aristides Ramón Ortiz Bernal, Carlos Raúl Romero Giacomo, Claudio Coronel Quiroga, Demetrio Silguero, Eduardo Vera, Francisco Noé Andrada, Heriberto Zarate, Hugo Olmedo, Jorge Daniel Toledo, José Milciades Cañete Chamorro, Nelson Rodríguez, Osmar López Verón, Osvaldo Daniel Sosa, Pablo Emmanuel Rojas, Oscar Rafael Aquino Acuña, Sixto Gonzáles Franco, Cándido Ulises Zelaya Flores and Walter Javier Riveros Rojas, the sum of US$ 9,000.00 (nine thousand United States dollars) each or the equivalent in the State's national currency, in the terms set forth in paragraphs 290, 291, 292 and 294 of the present Judgment; and

f) to the next of kin of former inmates Francisco Ramón Adorno, Sergio David Poletti Domínguez and Mario del Pilar Álvarez Pérez, US$ 1,000.00 (one thousand United States dollars) or the equivalent in the State's national currency, in the terms set forth in paragraphs 293 and 294 of the present Judgment.

17. The State must pay non-pecuniary damages of US$2,706,000.00 (two million seven hundred and six thousand United States dollars) or the equivalent in the State's national currency, in the terms set forth in paragraphs 304 to 309 of the present Judgment, divided as follows:

a) to deceased inmates Elvio Epifanio Acosta Ocampos, Marco Antonio Jiménez, Diego Walter Valdez, Sergio Daniel Vega Figueredo, Sergio David Poletti Domínguez, Mario del Pilar Álvarez Pérez, Juan Alcides Román Barrios,

Antonio Damián Escobar Morinigo and Carlos Raúl de la Cruz, the sum of US$ 65,000.00 (sixty-five thousand United States dollars) each or the equivalent in the State's national currency, as set forth in paragraphs 304 and 309 of the present Judgment;

b) to deceased inmates Benito Augusto Adorno, Richard Daniel Martínez and Héctor Ramón Vázquez, the sum of US$ 50,000.00 (fifty thousand United States dollars) each or the equivalent in the State's national currency, as set forth in paragraphs 304 and 309 of the present Judgment;

c) to Juan Carlos Zarza Viveros, Miguel Ángel Coronel Ramírez, Sergio Vincent Navarro Moraez, Alberto David Martínez, Miguel Ángel Martínez, Raúl Esteban Portillo and César Fidelino Ojeda Acevedo, the sum of US$ 50,000.00 (fifty thousand United States dollars) each or the equivalent in the State's national currency, in the terms set forth in paragraphs 305 and 309 of the present Judgment;

d) to Pedro Iván Peña, Ever Ramón Molinas Zárate, Arsenio Joel Barrios Báez and Francisco Ramón Adorno, the sum of US$ 45,000.00 (forty-five thousand United States dollars) each or the equivalent in the State's national currency, as set forth in paragraphs 305 and 309 of the present Judgment;

e) to Alfredo Duarte Ramos, Abel Achar Acuña, Osvaldo Mora Espinola, Ismael Méndez Aranda and Hugo Antonio Vera Quintana, the sum of US$ 40,000.00 (forty thousand United States dollars) each or the equivalent in the State's national currency, as set forth in paragraphs 305 and 309 of the present Judgment;

f) to Clemente Luis Escobar González, Juan Ramón Lugo and Carlos Román Feris Almirón, the sum of US$ 30,000.00 (thirty thousand United States dollars) each or the equivalent in the State's national currency, in the terms set forth in paragraphs 305 and 309 of the present Judgment;

g) to Pablo Ayala Azola, Julio César García, José Amado Jara Fernández, Rolando Benítez, Antonio Delgado, Aristides Ramón Ortiz Bernal, Carlos Raúl Romero Giacomo, Claudio Coronel Quiroga, Demetrio Silguero, Eduardo Vera, Francisco Noé Andrada, Heriberto Zarate, Hugo Olmedo, Jorge Daniel Toledo, José Milciades Cañete Chamorro, Nelson Rodríguez, Osmar López Verón, Osvaldo Daniel Sosa, Pablo Emmanuel Rojas, Oscar Rafael Aquino Acuña, Sixto Gonzáles Franco, Cándido Ulises Zelaya Flores and Walter Javier Riveros Rojas, the sum of US$ 22,000.00 (twenty-two thousand United States dollars) each or the equivalent in the State's national currency, in the terms set forth in paragraphs 305, 306 and 309 of the present Judgment;

h) to the identified next of kin of the deceased inmates, the sum of US$ 25,000.00 (twenty-five thousand United States dollars) or the equivalent in the State's national currency, in the terms set forth in paragraphs 307 and 309, and

i) to the identified next of kin of the former inmates injured in the fires, the sum of US$ 15,000.00 (fifteen thousand United States dollars) or the equivalent in the State's national currency, in the terms set forth in paragraphs 307 and 309 of the present Judgment.

18. In costs and expenses, the State must pay the Tekojojá Foundation the sum of US$ 5,000.00 (five thousand United States dollars) or the equivalent in the State's national currency, and the Center for Justice and International Law (CEJIL) the sum of US$12,500.00 (twelve thousand five hundred United States dollars) or the equivalent in the State's national currency, as set forth in paragraph 330 of the present Judgment.

19. The State must pay the compensation and costs and expenses within one year of the date of notification of the present Judgment, as set forth in paragraph 331 thereof, unless different deadlines should be established, pursuant to the terms of paragraphs 315 to 322 and 331 of this Judgment.

20. The State must deposit the compensation ordered for victims who are minors in a bank investment in their name, in a sound Paraguayan institution, in United States dollars, within one year and under the most advantageous terms allowed under banking law and practice, for as long as they are minors, as set forth in paragraph 336 of this Judgment.

21. The State may fulfill the pecuniary obligations through payment in United States dollars or in an equivalent sum in the State's national currency, using for the respective calculation the exchange rate between both currencies at the New York exchange the day before the payment. The bank investment will be in United States dollars in keeping with the terms of paragraphs 335 and 336 of this Judgment.

22. The payments for pecuniary and non-pecuniary damages and costs and expenses established in the present Judgment shall not be subject to, reduced by or conditional upon current or future fiscal considerations, in the terms of paragraph 337 of the present Judgment.

23. Should the State fall into arrears, it shall pay interest on the amount owed, which will be at the banking arrearage interest rate in effect in Paraguay.

24. If for any reason attributable to the beneficiaries of the compensations, they are unable to receive them within the stipulated one-year period from the date of notification of the present Judgment, the State shall deposit the respective amount in favor of said beneficiaries in a bank account or certificate of deposit, at a sound Paraguayan financial institution, in accordance with the terms of paragraph 335 of the present Judgment.

25. The Court will oversee full compliance with this Judgment and will declare the case closed once the State has fully complied with the present Judgment. Within one year of the date of notification of this Judgment, Paraguay will submit a report to the Court on the measures adopted to comply with this Judgment, as set forth in paragraph 339 thereof.

Judge Cançado Trindade informed the Court of his Concurring Opinion, which is affixed to this Judgment.

Sergio García-Ramírez
President

Alirio Abreu-Burelli

Oliver Jackman

Antônio A. Cançado Trindade

Cecilia Medina-Quiroga

Manuel E. Ventura-Robles

Diego García-Sayán

Víctor Manuel Núñez-R.
Judge *ad hoc*

Pablo Saavedra-Alessandri
Secretary

So ordered,

Sergio García-Ramírez
President

Pablo Saavedra-Alessandri
Secretary

CONCURRING OPINION OF JUDGE A.A. CANÇADO TRINDADE

1. I am voting in favor of the adoption of the present Judgment of the Inter-American Court of Human Rights in the case of the *"Juvenile Reeducation Institute" vs. Paraguay*. This judgment follows the same line of reasoning that the Court introduced in the now historic and paradigmatic case of the *"Street Children" vs. Guatemala (Villagrán Morales et al.,* 1999-2001) and depicts a reality that is everyday life across Latin America (and other regions of the world). The case also demonstrates that the human conscience has evolved to the point where justice can be done and the rights of even the most vulnerable elements of society protected by granting them, like any other human being, direct access to an international court to lay claim to their rights, as plaintiffs with full standing. With regard to the present Judgment that the Court has just adopted, I feel compelled to share my thoughts on two points in order to explain my position on the matter. I refer, specifically, to the questions of the subjectivity [*titularité]* of rights in extremely adverse situations, and the broad scope of due process of law.

I. Subjectivity [*titularité*] of rights in extremely adverse situations

2. The *Case of the "Street Children",* which this Court concluded three years ago, pointed up how important it is that individuals be allowed direct access to international courts. This enables them to assert their rights against abuses of power and endows domestic public law and international law with an ethical content, a fact made clear to this Court in the course of the contentious proceedings in the Case of the "Street Children", where the mothers of the murdered children, who were as poor and forsaken as their children had been in life, were able to turn to an international court, appear at the proceedings[231] and, thanks to this Court's judgments on the merits and reparations[232] which supported their claims, were at least able to recoup their faith in human justice.

3. Now, three years later, this *Case of the "Juvenile Reeducation Institute"* once again demonstrates that even in the most adverse circumstances, the human being emerges as the subject of the International Law of Human Rights, endowed with full procedural standing in an international court. The individual's right of recourse to international justice is realized in the jurisprudence of the Inter-American Court. An important step in that regard was taken last year in the Court's Judgment in the *Five Pensioners vs. Peru* (February 28, 2003), which made clear the broad scope of the right of recourse to the courts (at both the domestic and international levels[233]): that right is not reduced to formal access, *stricto sensu*, to the judicial instance; the right of effective recourse to a competent court or tribunal means, *lato sensu*, the right to obtain justice, i.e., an autonomous right to the very *realization* of justice.

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[231] Public hearings before this Court on January 28 and 29, 1999, and March 12, 2001.

[232] Of November 19, 1999 and May 26, 2001, respectively.

[233] For a study on this subject, see A.A. Cançado Trindade, *El Acceso Directo del Individuo a los Tribunales Internacionales de Derechos Humanos*, Bilbao, Universidad de Deusto, 2001, pp. 9-104; A.A. Cançado Trindade, "Vers la consolidation de la capacité juridique internationale des pétitionnaires dans le système interaméricain des droits de la personne", 14 *Revue québécoise de droit international* - Montreal (2001) n. 2, pp. 207-239.

4. That was the first contentious case processed entirely under the Court's new Rules of Procedure (adopted on November 24, 2000, and in force since June 1, 2001), which granted the petitioners *locus standi in judicio* during all stages of the proceedings before the Court. Now, a year and a half later, the Court's Judgment in the *Case of the "Juvenile Reeducation Institute"* underscores the significance of the historic amendments that the Court introduced and that are now part of its current Rules of Procedure (paragraphs 106, 119-120, and 125) to protect the individual's subjectivity [*titularité]* of protected rights by giving him *locus standi in judicio* in all phases of contentious proceedings before the Court. The *"Street Children"* and *"Juvenile Reeducation Institute"* cases are eloquent testimony of *titularité*, even in the most adverse circumstances.

5. As I underscored in my Concurring Opinion in the *Case of the "Five Pensioners"*, the Court correctly held that "the consideration which ought to prevail is that of the individuals being *subjects* of all the rights protected by the Convention, as the true substantive complaining party, and as subjects of the International Law of Human Rights." (paragraph 16). This was a "significant step forward taken by the Court, since the adoption of its present Regulations" (para. 17) inasmuch as the "assertion of the international juridical personality and capacity of the human being fulfills a true *need* of the contemporary international legal order" (para. 23). I added the following:

> In fact, the assertion of that juridical personality and capacity constitutes the truly revolutionary legacy of the evolution of the international legal doctrine in the second half of the XXth century. The time has come to overcome the classic limitations of the *legitimatio ad causam* in International Law, which have so much hindered its progressive development towards the construction of a new *jus gentium*. An important role is here being exercised by the impact of the proclamation of human rights in the international legal order, in the sense of humanizing [it]: those rights were proclaimed as *inherent* to every human being, irrespective of [...] circumstances.[234] The individual is a subject *jure suo* of International Law, and to the recognition of the rights which are inherent to him corresponds ineluctably the procedural capacity to vindicate them, at national as well as international levels. (paragraph 24).

6. More recently, in the case of the *Gómez Paquiyauri Brothers vs. Peru* (Judgment of July 8, 2004), I followed the same line of reasoning and stressed the point that the individuals' *titularité* of all Convention-protected rights must trump all other considerations, as individuals are the subjects of the International Law of Human Rights" (para. 27). That development is a "direct consequence" of the step forward that the Court took upon adoption of its current Rules of Procedure, the fourth in its history. The amended Rules of Procedure grant individual petitioners *locus standi in judicio* for all phases of the proceedings before the Court (para. 27). Furthermore, as I have maintained in recent years, "we are in the midst of an historical process of consolidating the individual's emancipation *vis-à-vis* his own State" (para. 28).

7. Six years ago, in my Concurring Opinion on the Court's Judgment in *Castillo Petruzzi et al. vs. Peru* (Preliminary Objections, 1998), I described the "qualitative advance" that was needed under the American Convention:

> This means to seek to secure, not only the direct representation of the victims or their relatives (*locus standi*) in the procedure before the Inter-American Court in cases already forwarded to it by the Commission (...), but [also] the right of direct access of

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[234] IACtHR, *Juridical Condition and Human Rights of the Child*, August 28, 2002, Advisory Opinion OC-17/02, operative paragraph 1, and Concurring Opinion of Judge A.A. Cançado Trindade, paragraphs 1-71.

> individuals to the Court itself (*jus standi*), so as to bring a case directly before it, as the sole future jurisdictional organ for the settlement of concrete cases under the American Convention (...)
>
> (...) Above all, this qualitative advance would fulfill, in my understanding, an imperative of justice. Individuals' unrestricted *jus standi* -no longer merely *locus standi in judicio*- before the Inter-American Court itself, represents, -as I have indicated in my Opinions in other cases before the Court-[235] the logical consequence of the conception and formulation of rights to be protected under the American Convention at [the] international level, to which it ought to correspond necessarily the full juridical capacity of the individual petitioners to vindicate them. (paragraphs 42-43).

8. The Court's Judgment in the *Case of the "Juvenile Reeducation Institute"* underscores the fact that each individual is the subject (*titulaire)* of human rights (para. 106); in other words, in the *cas d'espèce*, each child victimized by the suffering at the "Juvenile Reeducation Institute" is the subject (*titulaire)* of human rights; not to admit that fact would "unduly restrict their status as subjects of the International Law of Human Rights" (para. 125). Again, I repeat, despite the adversities that the inmates at the "Panchito López" "Juvenile Reeducation Institute" were forced to endure -adversities as extreme as three fires (that killed, burned or otherwise injured inmates at the Center)[236]- and despite the fact that their existential condition as children (minors) limited their juridical capacity-, their subjectivity of rights emanating directly from international law has been preserved intact and their case has reached an international human rights court.

9. In its Advisory Opinion OC-17/2002 (August 28, 2002) on the *Juridical Condition and Human Rights of the Child*, the Court addressed the duties that family and State alike have *vis-à-vis* children in light of children's rights under the American Convention on Human Rights and the United Nations Convention on the Rights of the Child. But the Court also made plain the fact that a child is the subject (*titulaire)* of rights, and not simply an object of protection. The Court further held that the Law accords juridical personality to every human being (child and adolescent included), irrespective of his existential condition or of his juridical capacity to exercise his rights for himself (capacity of exercise).

10. As I noted in my Concurring Opinion on Advisory Opinion No. 17:

> It is true that juridical personality and capacity are closely related. At the conceptual level, however, they are distinct from each other. It may occur that an individual may have juridical personality without enjoying, as a result of his existential condition, full capacity to act. Thus, in the present context, one understands by personality the aptitude to be *titulaire* of rights and duties, and by capacity the aptitude to exercise them by oneself (capacity of exercise). Capacity is thus closely linked to personality; nevertheless, if by any situation or circumstance an individual does not enjoy full juridical capacity, this does not mean that he ceases to be a subject of right[s]. Such is the case with the children (para. 8).

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[235] Cf., in this regard, my Separate Opinions in *Castillo Páez* (Preliminary Objections, Judgment of January 30, 1996, paragraphs 14-17) and *Loayza Tamayo* (Preliminary Objections, Judgment of January 31, 1996), paragraphs 14-17, respectively.

[236] Nine inmates died as a result of the fire on February 11, 2000; nine inmates were injured or burned in the fire on February 5, 2001; and new disturbances broke out in the fire on July 25, 2001 (cf. paragraph 134.29-34 of the present Judgment).

11. In its recent jurisprudence, both in the form of advisory opinions and judgments on contentious cases, the Inter-American Court has held that a child's substantive and procedural rights are to be preserved in any and all circumstances. Underlying this notable development is the Kantian concept of the human person – children included, of course- as an end unto himself; this means all human beings, regardless of their juridical capacity (to exercise). That development is informed by the fundamental principle of respect for the dignity of the human person, irrespective of his existential condition. By virtue of that principle, every human being, no matter what his situation or circumstance, has a right to dignity. This fundamental principle is echoed in a number of international treaties and human rights instruments.[237] Indeed, in our time, the recognition and consolidation of the human being's position as a full subject of the International Law of Human Rights is an unequivocal and eloquent expression of today's *humanization* of International Law itself (the new *jus gentium* of our times)[238].

II. The Broad Scope of Due Process of Law.

12. One of the central issues in the *Case of the "Juvenile Reeducation Institute"* that the Court examined in the Judgment it just delivered, is that of preventive imprisonment [or preventive detention or preventive custody]. In practice, preventive imprisonment has become a curse now afflicting thousands and thousands of forgotten souls in detention centers around the world. In its Judgment in this case, the Court warns against the excesses and abuses of this practice, pointing out that preventive detention must be for the shortest time possible. The Court also reminds us of the special precautions that must be taken when children are deprived of their liberty. And, as the Court also points out, preventive imprisonment is limited by universally recognized general principles of law (such as the presumption of innocence and the principles of necessity and proportionality). If those principles are not being observed, then preventive detention becomes an unlawful form of advance punishment without conviction (paragraphs 229-231). At the substantive level and in keeping with the case law that the Court established in the *Case of the "Street Children" (*Merits, 1999), the Court uses the concept of the right to life *latu sensu,* so that it also encompasses the right to live in dignity (paragraphs 151-152, 156, 160-161, 164, 167-168 and 170).

13. Here, once again, the role and importance of the general principles of law that, on a broader plane, permeate and steer due process of law as a whole, become more self-evident. In Advisory Opinion OC-9/87, on *Judicial Guarantees in States of Emergency*, the Inter-American Court had occasion to clarify the broad scope of due process of law under Article 8 of the American Convention on Human Rights. The Court wrote that Article 8 includes the procedural requirements and prerequisites that courts must observe in order to ensure adequate protection of those persons whose rights or obligations are pending judicial determination; in other words, in order for those requirements and prerequisites to function as real judicial guarantees in the sense of the American Convention.[239] The concept of due process of law

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[237] See, for example, the preambles of the United Nations' 1989 Convention on the Rights of the Child; of the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (Protocol of San Salvador, 1988), and others.

[238] See, on this subject, A.A. Cançado Trindade, *Tratado de Direito Internacional dos Direitos Humanos*, Volume III, Porto Alegre/Brazil, S.A. Fabris Ed., 2003, pp. 447-497.

[239] IACtHR, Advisory Opinion OC-9/87 (October 6, 1987) on *Judicial Guarantees in States of Emergency*, Series A, No. 9, paragraphs 27-28.

expressed in Article 8 of the Convention should be understood to apply to all judicial guarantees referred to in the American Convention (reading Article 8 in combination with Articles 7(6), 25 and 27(2) of the Convention).[240]

14. That being the case, judicial guarantees such as those protected under American Convention articles 7(6) -*habeas corpus*– and 25(1) –the petition for a writ of *amparo* or the petition for a writ of *mandamus* or any other effective remedy before the competent domestic judges or courts- are essentials that must be taken within the framework of the *principles* of Article 8 of the Convention.[241] The Court concludes Advisory Opinion OC-9 in very unambiguous terms:

> "the above judicial guarantees should be exercised within the framework and the principles of due process of law, expressed in Article 8 of the Convention. "[242]

***15. MORE RECENTLY, IN ITS HISTORIC AND PIONEERING ADVISORY OPINION OC-16/99 (OCTOBER 1, 19999) ON* THE RIGHT TO INFORMATION ON CONSULAR ASSISTANCE IN THE FRAMEWORK OF THE GUARANTEES OF DUE PROCESS OF LAW, *WHICH HAS BEEN A SOURCE OF INSPIRATION FOR THE INTERNATIONAL CASE-LAW* IN STATU NASCENDI *ON THE MATTER, THE INTER-AMERICAN COURT EMPHASIZED THAT THE PREREQUISITES OF THE JUDICIAL GUARANTEES (PROTECTED UNDER ARTICLE 8 OF THE CONVENTION) ARE INTENDED TO ENSURE OR TO ASSERT THE ENTITLEMENT TO A PROTECTED RIGHT OR THE EXERCISE THEREOF. THE COURT ALSO POINTED UP THE ESSENTIALLY EVOLUTIVE NATURE OF THE VERY CONCEPT OF DUE PROCESS OF LAW, WHICH GROWS AND EXPANDS TO ACCOMMODATE NEW REQUIREMENTS FOR THE PROTECTION OF THE HUMAN PERSON.*[243]**

16. In my concurring opinion on the latest and equally historic Advisory Opinion OC/18 (September 17, 2003) on the *Juridical Condition and Rights of Undocumented Migrants* (the first time an international court has addressed this matter), I pointed out the great significance that I attribute to the fundamental principles of law in any legal system, as follows:

> Every legal system has fundamental principles, which inspire, inform and conform their norms. It is the principles (derived etymologically from the Latin *principium*) that, evoking the first causes, sources or origins of the norms and rules, confer cohesion, coherence and legitimacy upon the legal norms and the legal system as a whole. It is

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240 *Ibid*., paragraphs 29-30.

241 *Ibid*., paragraph 38 and operative paragraph No. 1.

242 *Ibid*., operative paragraph No. 3.

243 Cf. IACtHR, Advisory Opinion OC-16/99 (October 1, 1999) on *The Right to Information on Consular Assistance in the Framework of the Guarantees of Due Process of Law.* Series A, No. 16, paragraphs 117-124.

> the general principles of law (*prima principia*) which confer to the legal order (both national and international) its ineluctable axiological dimension; it is they that reveal the values which inspire the whole legal order and which, ultimately, provide its foundations themselves. This is how I conceive the presence and the position of the principles in any legal order, and their role in the conceptual universe of Law. (...) From the *prima principia* the norms and rules emanate, which in them find their meaning. The principles are thus present in the origins of Law itself. The principles show us the legitimate ends to seek: the common good (of all human beings, and not of an abstract collectivity), the realization of justice (at both national and international levels), the necessary primacy of law over force, the preservation of peace. Contrary to those who attempt - in my view in vain - minimize them, I understand that, if there are no principles, nor is there truly a legal system. Without the principles, the "legal order" simply is not accomplished, and ceases to exist as such. (paragraphs 44 and 46).

17. In its *jurisprudence constante,* the Court has always relied upon general principles of law.[244] Some general principles of law (such as the principles of equality and non-discrimination) are truly *fundamental* as they embody values and are built into the very foundation of the legal system. In the realm of the International Law of Human Rights, these fundamental principles include the principle of the dignity of the human person (which goes to the very purpose of law) and the principle of the inalienability of the human person's inherent rights (which ties in with a premise that is basic to the construction of any *corpus juris* of the International Law of Human Rights). As I pointed out in my Concurring Opinion on the Court's recent Advisory Opinion OC-18, in reality those principles

> "form the *substratum* of the legal order itself, revealing the *right to the Law* of which all human beings are *titulaires*,[245] independently of their [...] citizenship or any other circumstance" (paragraph 55).

18. As I see it, paragraphs 1 and 2 of Article 8 of the American Convention on Human Rights establish not just prerequisites of due process of law or guidelines for its observance, but also true general principles of law (the principle of effective recourse to a competent, independent and impartial judge or tribunal, the principle of presumption of innocence) that serve as the compass and guide of due process of law. Among these principles are the afore-mentioned judicial guarantees provided for in articles 7(6) and 25(1) of the American Convention. My approach to the relationship between articles 8 and 25 of the American Convention is, therefore, to view them as an aggregate rather than separately, and thus maximize protection of the rights upheld in the Convention. I therefore concur with the Court's finding that Article 8(1) of the American Convention was violated in the instant case; regrettably, however, I do not concur with the reasoning that the Court followed to conclude that

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[244] Cf. IACtHR, *Case of the Five Pensioners vs. Peru.* Judgment of February 28, 2003, para. 156; IACtHR, *Case of Cantos vs. Argentina,* Preliminary Objections, Judgment of September 7, 2001, para. 37; IACtHR, *Baena Ricardo et al. vs. Panama,* Judgment of February 2, 2001, para. 98; IACtHR, *Neira Alegría vs. Peru,* Preliminary Objections, Judgment of December 11, 1991, para. 29; IACtHR, *Velásquez Rodríguez vs. Honduras* (Judgment of July 29, 1988), para. 184; see also IACtHR, Advisory Opinion OC-18/2003, on the *Juridical Condition and Rights of Undocumented Migrants (*September 17, 2003), paragraphs 83-110 and 157; IACtHR, Advisory Opinion OC-17/2002, on the *Juridical Condition and Human Rights of the Child,* August 28, 2002, paragraphs 66 and 87; IACtHR, Advisory Opinion OC-16/99, *The Right to Information on Consular Assistance in the Framework of the Guarantees of Due Process of Law,* October 1, 1999, paragraphs 58, 113 and 128; IACtHR, Advisory Opinion OC-14/94, *International Responsibility for the Promulgation and Enforcement of Laws in Violation of the Convention (Arts. 1 and 2 of the American Convention on Human Rights),* December 9, 1994, para. 35.

[245] A.A. Cançado Trindade, *Tratado de Direito Internacional dos Direitos Humanos*, Vol. III, pp. 524-525tomo III, Porto Alegre/Brazil, S.A. Fabris Ed., 2003, pp. 524-525.

paragraph 2 of Article 8 of the Convention was not violated in the case of the *"Juvenile Reeducation Institute"*.

19. Both in the application it filed with the Court (May 20, 2002) and in its brief of final pleadings (July 5, 2004), the Inter-American Commission on Human Rights maintained that in the instant case, the "convicted and accused inmates were never separated" at the "Panchito López" Center and "the accused were treated as if they had been convicted of a crime," which implied a violation of the principle of presumption of innocence protected under Article 8(2) of the American Convention.[246] The Commission added that the vast majority of the inmates were without legal representation and "almost the entire inmate population" was in preventive detention.[247] And, as the Commission pointed out in its application, "[e]ven the State acknowledged this fact in the reports it filed with the Commission."[248]

20. In my opinion, the points made by the Inter-American Commission in this regard, both in its application and in its brief of final pleadings (*supra*) –points that the State did not contest either in its briefs[249] or at the public hearing held by the Court- were proven beyond any reasonable doubt. There was a clear violation of the principle of presumption of innocence, to the detriment of almost all the inmates at the "Panchito López" Center. To expect or demand additional information from the petitioners[250] is, as I see it, to saddle the victims with too heavy a burden of proof. In circumstances such as those established in the instant case (children deprived of their liberty and living under the constant threat of danger), as the representatives of the victims and of their next of kin (Ms. Viviana Krsticevic and Ms. María Clara Galvis) pointed out in the public hearing held by the Court (May 3-5, 2004), the burden of proof is reversed and must be borne by the respondent.

21. At that public hearing, the State's representation denied the existence of a (deliberate) pattern of violations and insisted that the principle *onus probandi incumbit actori* must apply; at the same time, however, he reiterated –in very unambiguous language and with dignity- his acknowledgement of the problems in the prison system and his concern for the situation of the adolescents at the "Panchito López" Center. At no time did the State's representation obstruct the proceedings before the Court. To the contrary, at the public hearing in question he again acknowledged the facts in the complaint, which included "the high percentage of inmates awaiting or standing trial but not yet convicted." His posture was very helpful in establishing the facts in the *cas d'espèce.*[251]

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246 Docs. cits., paragraph 118 and p. 28, respectively.

247 Docs. cits., paragraph 119 and p. 28, respectively.

248 Doc. cit., paragraph 119.

249 In its brief answering the application (December 13, 2002), the State was very clear in pointing out that "the lack of means also makes it difficult to correct another problem, which is the segregation of those awaiting or standing trial from those already convicted. The State is making efforts to comply with this provision of the Constitution and the law and is already seeing results in some detention centers." (paragraph 201).

250 As indicated at paragraphs 216-218 of the present Judgment.

251 Moreover, in the present Judgment the Court has recognized the work that the State is doing through its legislative, administrative and other reforms that are particularly helpful in protecting children

22. In the present judgment, the Inter-American Court itself accepts as proven fact that "the vast majority" of the inmates at the Panchito López Center were "awaiting or standing trial, but had not yet been convicted" and that those awaiting or standing trial "were not separated from the inmates who had been convicted" (paragraphs 134.19 and 20). It was up to the Court, then, to extrapolate the consequences of its own finding on the facts. That being the case, I fail to understand why a violation of both Article 8(1) and Article 8(2)(c) and (e) was not found. The finding that, in my view, the Court should have arrived at in the section on the merits, should have carried over into the section on reparations where, for reparations purposes, a distinction should have been made between the accused and those already convicted. In the instant case, there seems to be no doubt at all that the principle of the presumption of innocence protected under Article 8(2) of the Convention has been violated.

23. The broad scope of due process of law, as I perceive it, where Article 8(1) and (2) tie in with articles 25(1) and 7(6) of the American Convention, is in large part the result of the fundamental role and added importance that I attribute to general principles of law (cf. *supra*). My preference would have been to have this Judgment of the Court deal with judicial guarantees and judicial protection (articles 8 and 25 of the Convention) jointly –not separately, as was done. Both in its application and its brief of final pleadings, the Inter-American Commission made a very good case for this approach.

24. In exercising its contentious jurisdiction, the Inter-American Court has in fact linked articles 8 and 25 time and time again. It did so in its judgments in the cases of the "*Street Children"* (1999, paragraphs 219-228 and 235-237), *Durand and Ugarte vs. Peru* (2000, paragraphs 128-130), *Bámaca Velásquez vs. Guatemala* (2000, paragraphs 187-191), the *Constitutional Court* (pertaining to Peru, 2001, paragraphs 68-71 and 89-90), *Baena Ricardo et al. vs. Panama* (2001, paragraphs 124-129 and 137), *Las Palmeras* (concerning Colombia, 2001, paragraphs 58-60), *Maritza Urrutia vs. Guatemala* (2003, paragraphs 116-121), *Juan Humberto Sánchez vs. Honduras* (2003, paragraphs 120-121 and 124), and the *19 Merchants vs. Colombia* (2004, paragraphs 187 and 192-194).

25. Thus, the approach that I am advocating here, which links judicial guarantees and judicial protection (articles 8 and 25 of the Convention), is entirely consistent with the *jurisprudence constante* of the Inter-American Court both in contentious and advisory matters (cf. *supra*), and also affords a heightened degree of protection to those who need it. The abundant jurisprudence of the European Court of Human Rights under Article 6 of the European Convention on Human Rights has recognized that the provisions of that article are true general principles of law, specifically that every person has the right to bring his case to an impartial and competent authority (which by extension means that justice cannot be denied) and to the principle of presumption of innocence.

26. All this points up the prominent role reserved for due process of law in the rule of law *(État de Droit)* in a democratic society. Hence, a narrow interpretation of due process would never be justified. The Inter-American Court has always accorded

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deprived of their liberty, given the State's obligations under Article 19 of the American Convention (*cf.* paragraphs 214 and 263-265).

broad scope to Article 8 of the American Convention. This was particularly true, for example, in the case of *Baena Ricardo et al. vs. Panama* (Judgment of February 2, 2001, paragraphs 124-127), where the Court observes that, ultimately, justice done through due process of law, as a "legally protected true value," must be ensured (para. 129). As I see it, the broad scope of due process of law follows from its close relationship to the right to effective recourse (*lato sensu)* to a competent court or tribunal.

27. The latter concept is expressed in Article 25 of the American Convention. In my Dissenting Opinion in *Genie Lacayo vs. Nicaragua (Application for judicial review of the Judgment of January 29, 1997*. Order of the Court of September 13, 1997), I underscored the sense and scope of Article 25 of the American Convention in the following terms:

> The right to a simple, prompt and effective remedy before the competent national judges or tribunals, enshrined in Article 25 of the Convention, is a fundamental judicial guarantee far more important than one may *prima facie* assume,[252] and which can never be minimized. It constitutes, ultimately, one of the basic pillars not only of the American Convention on Human Rights, but of the rule of law (*État de Droit*) itself in a democratic society (in the sense of the Convention). Its correct application has the sense of improving the administration of justice at national level, with the legislative changes necessary to the attainment of that purpose.
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> The origin - little-known - of that judicial guarantee is Latin American: from its insertion originally in the American Declaration of the Rights and Duties of Man (of April 1948),[253] it was transplanted to the Universal Declaration of Human Rights (of December 1948), and from there to the European and American Conventions on Human Rights (Articles 13 and 25, respectively), as well as to the United Nations Covenant on Civil and Political Rights (Article 2(3)). Under the European Convention on Human Rights, in particular, it has generated a considerable case-law,[254] apart from a dense doctrinal debate. (paragraphs 18-19).

28. The Inter-American Court has recognized the importance of the right to effective recourse to a competent court or tribunal; from the time of its Judgment in *Castillo Páez vs. Peru* (November 3, 1997) (paragraph 82) to the present, the Court has repeatedly held that every individual's right to a simple and prompt recourse, or any other effective recourse, to a competent court or tribunal for protection against acts that violate his fundamental rights (Article 25 of the Convention) "is one of the basic pillars, not only of the American Convention but also of the rule of law itself in a democratic society, within the

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[252]. Its importance was pointed out, for example, in the *Report of the Commission of Jurists of the OAS for Nicaragua*, of February 4, 1994, pp. 100 and 106-107, paragraphs 143 and 160 (later published in: 113/118 *Boletim da Sociedade Brasileira de Direito Internacional* (1998), pp. 335-386).

[253] At a time when the Commission on Human Rights of the United Nations was still in the process of preparing the Draft Universal Declaration (from May 1947 to June 1948), as recalled by the *rapporteur* of the Commission (René Cassin); the inclusion in the Universal Declaration of the provision on the right to an effective remedy by the competent national tribunals (Article 8), inspired by the counterpart provision of the American Declaration (Article XVIII), took place in the subsequent debates (of 1948) of the III Committee of the United Nations General Assembly. Cf. R. Cassin, "*Quelques souvenirs sur la Déclaration Universelle de 1948*", 15 *Revue de droit contemporain* (1968) n. 1, p. 10.

[254] At its beginnings, such case-law sustained the "accessory" character of Article 13 of the European Convention, seen - as from the eighties - as guaranteeing a subjective individual substantive right. Gradually, in its judgments in the cases of *Klass versus Germany* (1978), *Silver and Others versus United Kingdom* (1983), and *Abdulaziz, Cabales and Balkandali versus United Kingdom* (1985), the European Court of Human Rights began to recognize the autonomous character of Article 13. Finally, after years of hesitation and oscillations, the European Court, in its recent judgment, of 18 December 1996, in the case of *Aksoy versus Turkey* (paragraphs 95-100), determined the occurrence of an "autonomous" violation of Article 13 of the European Convention.

meaning of the Convention."[255] In the instant case, the Court has quite correctly established a violation of Article 25 of the Convention (paragraph 251).

29. In my judgment, due process requires recourse to a competent court or tribunal (*stricto sensu*), just as the realization of justice (access to a competent court *lato sensu*) requires due process. The right to avail oneself of the courts –the *right of recourse to the law*- only materializes through observance of due process of law and of the basic principles that comprise due process. It is faithful observance of these principles that leads to the realization of justice, i.e., to everyone's right of recourse to the courts in its fullest sense. Hence the ineluctable and intimate interrelationship between articles 8 and 25 of the American Convention affords the maximum protection of the individual's inherent human rights.

Antônio Augusto Cançado Trindade
Judge

Pablo Saavedra-Alessandri
Secretary

[255] For the Court's holdings to this effect over the last four years, v.g., *inter alia, Ivcher Bronstein vs. Peru* (Judgment of February 6, 2001, para. 135), *Mayagna (Sumo) Awas Tingni Community vs. Nicaragua* (Judgment of August 31, 2001, para. 112), *Cantos vs. Argentina* (Judgment of November 28, 2002, para. 52); *Juan Humberto Sánchez vs. Honduras* (Judgment of June 7, 2003, para. 121); *Maritza Urrutia vs. Guatemala* (Judgment of November 27, 2003, para. 117); *19 Tradesmen vs. Colombia* (Judgment of July 5, 2004, para. 193).

Appendix I

Names of inmates included in the list Presented by the Inter-American Commission on Human Rights on November 19, 2002*   (*Note: Some names appear to be repeated)
Acevedo Juan Alberto
Acevedo Maldonado Juan Alberto
Achar Acuña Abel
Achar Juan Carlos
Achucarro Ayala Deni David
Acosta Almada Lorenzo
Acosta Alvarenga Marcos
Acosta Ariel
Acosta Caballero Juan Carlos
Acosta Cabañas Edgar
Acosta Cabañas Edgar Ramon
Acosta Cabrera Agustin
Acosta Caceres Mario
Acosta Cristhian Ariel
Acosta Cristian
Acosta Demecio Epifanio
Acosta Estanislao
Acosta Fariña Victor Damian
Acosta Felipe Rubén
Acosta Fernández Fernando
Acosta Froy Alcides
Acosta Julio César
Acosta Manuel
Acosta Morel Marcial
Acosta Nolberto Ezequiel
Acosta Ocampos Elvio Epifanio
Acosta Pablino
Acosta Prieto Diego Miguel
Acosta riel
Acosta Rolon Jorge Daniel
Acosta Samudio Andres Fabian
Acosta Sergio Concepcion
Acosta Soto Arnaldo Damian
Acosta Villanueva Oscar
Acuña Acosta Luis Ariel
Acuña Alvarenga Oscar Rafael
Acuña Cesar Francisco
Acuña Chamorro Pedro Romualdo

Acuña Fernández Félix
Acuña Fretes Damian Marcelo
Acuña Gerardo Asunción
Acuña González Fabio
Acuña Ocampo David Lorenzo
Acuña Ocampos David Lorenzo
Acuña Oscar Rafael
Acuña Urunaga Enrique Daniel
Adornio Benito Augusto
Adorno Francisco Ramón
Adorno Oroa Atilio Ramón
Aguayo Adorno Fernado Miguel
Aguayo Brokel Cristian Armando
Aguayo Carlos Roberto
Aguayo Estigarribia Juan Carlos
Aguayo Guairare Hugo Antonio
Aguayo Raul
Aguayo Viera Luis Alberto
Aguero Angel Nicolas
Aguero Basilio
Aguero Cañete Abiel
Aguero Elizardo
Aguero Mario Bernardo
Aguero Moran Milciades
Aguero Ojeda Gustavo Andres
Aguero Osvaldo Rodrigo
Aguero Pablo Higinio
Aguero Pedro Pablo
Aguero Ruiz Juan Epifanio
Aguero Serafin
Aguero Souza Silvio
Aguero Valentin Gustavo
Aguero villalba Dario Ramon
Aguilar Milciades
Aguilar Noceda Nelson Darío
Aguilera Acuña Ramon Milciades
Aguilera Avelino Ramón
Aguilera Caballero Orlando Marcelo
Aguilera Espinola José de la Cruz
Aguilera Espinoza Juan Bernardo
Aguilera Filizzola Jorge Armando
Aguilera Gayoso Avelino Ramón
Aguilera José Eduardo
Aguilera Luis Fernando
Aguilera Morel Francisco Javier
Aguilera Ocampos Jorge Daniel
Aguilera Peralta Esteban
Aguilera Peralta Tomas
Aguilera Romero Gustavo Daniel
Aguilera Saucedo, Tomás
Aguilera Verdun Panfilo

Aguirre Ortiz Anibal
Agustin Ruiz Diaz Alfredo Abel
Alarcón Orque Julio Cpesar
Alcaraz Alcides Antonio
Alcaraz Estigarribia Humberto
Alcaraz Francisco Javier
Alcaraz Gustavo
Alcaraz Gustavo Adolfo
Alcaraz Hiber Nelson
Alcaraz Montania Ruben Dario
Alcaraz Noguera Lauro Cesar
Alcaraz Nuñez Cristian Gabriel
Alcaraz Riveros Ruben
Alcaraz Romualdo Rene
Alcaraz Ruben Dario
Alcaraz Vera Pedro Ramón
Alderete Franco José David
Alegre Caceres Will Rody
Alegre Mereles Alfredo Cecilio
Alegre Mereles Cecilio Alfredo
Alegre Mereles Julio Cesar
Alfaro Ruiz Diaz Jose Antonio
Alfonso García o Romero García Carlos Raúl
Alfonso Rodriguez Aldo Jovino
Alfonso Vera Victor David
Alleza Ruben Dario
Almada Florentin Bernardo Cesar
Almada Flores Marcial Alberto
Almada Gonzalez Anselmo
Almada Ovelar Reindaldo
Almada Richard Osmar
Almada Villalba Agustin Daniel
Almada Villalba Carlos Alberto
Almiron Cristhian Joel
Almiron Cristian Joel
Almiron Restaino Vicentre David
Alonso Britez Luis Antonio
Alonso Fretes Reinaldo
Alonso Garay Ever Dionisio o Cristhian Marcelo Zárate
Alonso Juan Alberto
Alonso Marco
Alonso Pereira Alcides
Alonso Ruiz Arsenio Manuel
Altamirano Bogado Gabriel
Altamirano Cardozo Jorge
Alvarenga Espinola Pablo Alfredo
Alvarenga Jorge
Alvarenga Milciades Ramon
Alvarenga Nuñez Arnaldo Andres
Alvarenga Nuñez Federico Ramón
Alvarenga Nuñez Hugo David

Alvarenga Riquelme Brigido
Alvarenga Roberto
Alvarez Acevedo José Alberto
Alvarez Delvalle Oscar Fabian
Alvarez Esquivel Ramón
Alvarez Gomez Silvino
Alvarez Gonzalez Jorge Gabriel
Alvarez Hector Daniel
Alvarez Hugo Alcides
Alvarez javier
Alvarez Juan Angel
Alvarez Pérez Mario
Amarilla Aguayo Cristhian David
Amarilla Aguayo Víctor Hugo
Amarilla Aguero Derlis Milciades
Amarilla Bazán Gerardo Herminio
Amarilla Bogado Gilberto German
Amarilla Bogado Oscar Andrés
Amarilla Centurion Miguel Angel
Amarilla Edgar Daniel
Amarilla Fernández José Israel
Amarilla Fredy de la Cruz
Amarilla Giménez Hugo Ricardo
Amarilla Gustavo
Amarilla Lider
Amarilla Luis Miguel
Amarilla Martínez evaristo
Amarilla Miguel Angel
Amarilla Morales Silvio Rubén o Morales Amarilla Silvio Rubén
Amarilla o Arias Espinola Cesar David
Amarilla Rodríguez Laimiro
Amarilla Ruiz Máximo
Amarilla Sosa Alcides
Amarilla Torres Jorge Ismael
Amarilla Vázquez Silvino
Amarilla Vera Eulogio
Amarilla Víctor
Amarilla Zaracho José Luis
Amzimi Anastasio
Andino Guillen Alfredo Ismael
Andrachko Cardenas Walter Dario
Andrada Baez Francisco Noe
Anton Marcos Daniel
Aponte Gomez Victor Javier
Aponte Gomez Victor Manuel
Aquino Asunción
Aquino Cristhian David
Aquino Derlis Luis
Aquino Fernando Luis
Aquino Fretes Arturo Ramón

Aquino Gomez Sergio Daniel
Aquino Gonzalez Concepción
Aquino González Juan
Aquino Isasi Braulio Daniel
Aquino Julio Cesar
Aquino Presentado
Aquino Reinaldo
Aquino Roberto Carlos
Aquino Rosas Alfredo
Aquino Sandoval Roberto
Aquino Sergio Daniel
Aquino Velazquez Rafael
Aquino Vera Luciano de los Santos
Aquino Zarate Edgar Adalberto
Arambulo Velazquez Juan Angel
Aranda Amarilla Ruben Dario
Aranda Armando Andrés
Aranda Avente Mariano
Aranda Benitez Juan de Dios
Aranda Bernal Ruben Dario
Aranda Caceres Alcides
Aranda Duarte Alberto Elias
Aranda Morinigo Faustino
Aranda Presentado Héctor Damián
Aranda Prieto Francisco Javier
Aranda Recalde Ramón Alberto
Aranda Zarate Cristian Hernan
Aranda Zarate Cristino Hernan
Araujo Alcides Ramón
Araujo Bracho Jorge Inocencio
Araujo Cristóbal
Araujo Insfran Milciades
Araujo Mendoza Pablo Ramon
Araujo Novat Ramón Alfredo
Araujo Paublo Ramon
Arca Diego Martín
Arce Aguilera Miguel Angel
Arce Aguilera Osmar Fernando
Arce Cirilo
Arce Godoy Ramon Fernando
Arce Ibarra Richar
Arce Leonardo Pablo
Arce Ramón Anastacio
Arce Simon
Arce Villalba Elvio Ramón
Arce Villalba Lucas Miguel
Areco Acosta Juan Carlos
Areco Gimenez Luis Alberto
Areco Gomez Marcos Adrian
Arehis Bernardino
Arehns Bernardino

Arehns Escobar Bernardino
Arepoco Flores Ever Augusto
Arevalos Aguero Emilio
Arevalos Aguilera Marcos Javier
Arévalos Carlos Aníbal
Arevalos Cesar Alberto
Arevalos Diaz de Vivar Wilfrido
Arevalos Medina Nelson Dario Javier
Arevalos Valenzuela Aquilino
Arguello Calvo Bienvenido
Arguello Diaz Nicolas Desiderio
Arguello Domingo Adolfo
Arguello Gimenez José del Rosario
Arguello Ortellado Venancio
Argüello Silva Cristian
Arguello Torres Victor Eduardo
Arias Espinola Gustavo Daniel
Arias Paredes Luis
Aricha Alegre Fabian
Arizaga Angel Pedro
Arizaga Hugo Ever
Arizaga Pedro Angel
Armoa Luis Alberto
Armoa Rivas, Magno
Armoa Villa Antonio
Arriola González, Víctor Gustavo
Arroyo Folle Julio César
Arroyo Folle Kemper
Arrua Acosta Roberto
Arrua Almada Victor Antonio
Arrua Bogado Alejandro
Arrua Coronel Mariano
Arrua José Alfredo
Arrua Peña Pascual
Arrua Roberto Daniel
Arteta Juan Ramón
Arzamendia Benítez Germán
Arzamendia Zárate Desiderio
Augusto Barreto Cesar David
Augusto Barriento Cesar Daniel
Augusto Barrientos Cesar David
Augusto Ramirez Cesar
Avalos Aguilera Victor Efrain
Avalos Escobar David Daniel
Avalos González Sergio
Avalos López Jaffen Luis
Avalos López Yaffer Luis
Avalos Portillo Hector Fermin
Avalos Recalde Digno
Aveiro Colman Santiago
Aveiro Ruben Dario

Avila Francisco Javier
Avila Luis María
Avila Sosa Aldo Darío
Ayala Avalos Alcides Daiter
Ayala Azoya Moises
Ayala Azoya Pablo
Ayala Azoya Salvador
Ayala Azoya Teodoro
Ayala Britez Eligio Nicolas
Ayala Cáceres Asunción
Ayala Cañete Nestor Alcides
Ayala Daniel Ramon
Ayala Fernandez Ricardo Darin
Ayala Flores Erasmo Ramón
Ayala Gilberto Dionisio
Ayala Gonzalez Anibal Marcelo
Ayala Gonzalez Victor Ramon
Ayala Hugo Ramón
Ayala José Luis
Ayala Mencia Ignacio
Ayala Miño Alciades
Ayala Monzon Rafael
Ayala Nelson Julian
Ayala Robledo Sergio Gabriel
Ayala Vazquez Juan Angel
Ayala Vera Eladio Rubén
Ayala Veron Adriano
Bae Alexandro
Baez Antunez Roque Dario
Baez Aranda Ismael
Baez Araujo Gustavo Daniel
Baez Avalos Vicente
Baez Bobadilla Felix Andres
Báez Bogado Alfredo
Baez Bogado Alfredo Andres
Baez Britez Felix Miguel
Baez Caballero Marcelino
Baez Daniel
Baez Francisco Javier
Baez Galeano Denis David
Baez Galeano Rody Osmar
Báez Garay José Gabriel
Baez Gonzalez Cristóbal
Báez González Mario Ramón
Báez Irala Victor Manuel
Báez Portillo Dario Jovito
Báez Rody Osmar
Báez Sosa Pedro Ricardo
Baez Villamayor Cesar Arnaldo
Baez Villasanti Ricardo Alejandro
Baigorria Mauro Sebastian

Balaguer Ortega Diego Martin
Balbuena Baez Nelson Vidal
Balbuena García Miguel Angel
Balbuena Genes Néstor Germán
Balbuena Mereles Oscar Ramón
Balbuena Miguel
Balbuena Ortiz Carlos Alberto
Balbuena Torales Enrique Solano
Barboza cabañas Gervacio Raul
Barboza Cabañas Raúl Gervacio
Barboza Gómez, Aldo César
Barboza Samudio Juan Alberto
Bareiro Colman Gustavo Ariel
Bareiro Gimenez Hugo Andres
Bareiro Pereira Luis Alberto
Barreiro López Avilio
Barreto Arnaldo
Barreto Arnaldo Andres
Barreto Benitez Ignacio Efren
Barreto Britos Hugo
Barreto Gonzalez Arnaldo
Barreto Leonardo
Barreto Lezcano Luis Alberto
Barreto Luis Alberto
Barreto Martínez Roberto Carlos
Barreto Nuñez Fredy Albino
Barreto Ramón Gustavo
Barrientos Cesar David
Barrios Alarcon Deli Raul
Barrios Alvarenga Nelson José
Barrios Ayala Porfirio
Barrios Báez Arsenio Joel
Barrios Bustos Cristian Ismael
Barrios Caballero Ruben Dario
Barrios Cardozo Mario Limpio Concepción
Barrios Cipriano Ramon
Barrios Cipriano Ramon (o Bareiro)
Barrios Cristóbal Eduardo
Barrios Gómez Victorino Osmar
Barrios Guillermo Andres
Barrios Jorge Ruben
Barrios Juan Ramón
Barrios Mendoza Felipe Asunción
Barrios Nelson Paul
Barrios Ramón Dario
Barrios Roa Cristóbal Eduardo
Barrios Velazquez Herminio Adolfo
Barrios Vera Santiago Joel
Barrios Wilson Walter
Barrrios Baez Arsenio Joel
Barua Martínez Alcides Ramón

Bauman Duarte Gustavo Lorenzo
Bauza Velazquez Desiderio Gregorio
Bazan Aquino Amos Daniel
Bazan Peña Rodrigo Adrian
Bedoya Paredes Vicente Ramón
Belotto Diaz Cristian Daniel
Belotto Francisco Rolando
Belotto Rolando Francisco
Benegas José Alfonso
Benegas Ledesma Milciades
Benitez Aguirre Gustavo Luis
Benitez Alen Gustavo Adolfo
Benitez Araujo Julio Daniel
Benitez Araujo Pablino
Benitez Balbino Adriano
Benítez Benialgo Cirilo Alejandro
Benitez Benitez Manuel
Benitez Bogarin Daniel José
Benitez Brigido
Benitez Cabral Wilfrido
Benitez Candia Juan Carlos
Benitez Carlos Alberto
Benitez Carlos Anibal
Benitez Carlos Ulises Roman
Benitez Casco Delmes Javier
Benitez Echeverry David
Benitez Edgar
Benitez Enrique Raúl
Benítez Espinola Hugo Arnaldo
Benitez Ever Hugo
Benítez Ferreira Orlando Fabián
Benítez Fleitas Gerardo Elías
Benitez Francisco
Benitez Gimenez Hector Rafael
Benítez Giménez Ramón Richard
Benitez Godoy Roque
Benitez Gómez Jorge
Benitez Gonzalez Daniel
Benitez Gregorio Alcides
Benitez Gustavo
Benitez Gustavo Adolfo
Benitez Heriberto
Benitez Hermosa Roberto
Benitez Honorio Alfredo
Benitez Ignacio de Jesús
Benitez Irusta Cristhian Ronald
Benitez Irusta Cristian Ronald
Benitez Juan Antonio
Benítez Juan Carlos
Benitez Juan Tanelo
Benítez Juan Víctor

Benítez Leiva Héctor
Benitez Leiva Héctor Ramón
Benitez Mario Antonio
Benitez Mendoza Arnaldo de Jesus
Benitez Moran Ever Hugo
Benítez Niño César
Benitez Orrego Jorge Antonio
Benitez Ortiz Gustavo Bernardino
Benitez Ozorio Leonardo
Benitez Paoli Bernardino
Benitez Paredes Vicente David
Benitez Patiño Aldo Lazaro
Benitez Paublo Dario Calixtro
Benitez Peña Julio Cesar
Benitez Pereira Ramon Guillermo
Benitez Portillo Angel David
Benitez Portillo Edgar David
Benitez Portillo Ramón Arturo
Benitez Quiroga Aldo Osmar
Benitez Ramirez Niño Cesar
Benitez Rodríguez Edgar Militon
Benítez Rolando
Benitez Ruiz Edgar Rolando
Benitez Sergio David
Benitez Silguero Cirilo
Benítez Soto Dionisio
Benitez Torres Isidro Ismael
Benitez Velazquez Pablo Aurelio
Benitez VenialgoCirilo Alejandro
Berdejo Ramirez Francisco
Bernal Cardozo Danilo
Bobadilla Cantero Juan Pablo
Bobadilla Estigarriba Fermin
Bobadilla Estigarribia Fermin
Bobadilla Javier
Bobadilla Mariano
Bobadilla Riveros Blasido Manuel
Bobadilla Roberto
Bogado Almiron Fredy Rafael
Bogado Arnoldo Diosnel
Bogado Benítez Osmar
Bogado C. Victor José
Bogado Candia Jony Gustavo
Bogado Christian Ricardo
Bogado Felipe Santiago
Bogado Leiva Atilio Daniel
Bogado Leiva Diego Damian
Bogado Marin Silvio
Bogado Osvaldo David
Bogado Roberto Carlos
Bogado Romero Nery Fernando

Bogado Santacruz Carlos Silvino
Bogado Victor
Bogado Víctor Juan Vicente
Bogarin Aguero Salomon
Bogarin Oscar Daniel
Bogarin Paredes Isidro
Bogarín Paredes Miguel Angel
Bogarin Pedro Carlos
Bogarin Rojas Adalberto
Bogarin Rojas Julio Cesar
Bogarin Sicto Antonio
Bogarin Sixto Antonio
Borarín Sixto Antonio
Borche Alessandrini Matias
Borche Alexandrini Matias
Bordon Alberto Ramon
Bordon Ponce Ariel Asunción
Bordon Ponce Julio
Bordon Sanabria Enrique Gustavo
Borja Miguel Angel
Boveda Miranda Nelson
Boveda Peralta Sergio
Boveda Vera Sergio Alberto
Brey Barboza Juan Clemente
Britez Adorno Sandro Ramón
Britez Barua Adalberto
Britez Benitez Alberto Ramón
Britez Benitez o Britos Daniel Arnaldo
Britez Cardozo Dam Benjamin
Britez Cardozo Joel Smith
Britez Cristhian Rene
Britez Cristian Rene
Britez Escobar Rodrigo Ariel
Britez Figueredo Carlos Ramón
Britez Franco José María
Britez Giménez Juan Antonio
Britez Leguizamon Cesar Gustavo
Britez Leguizamon, Edgar Alfredo
Britez Matias David
Britez Mendoza Hector Raul
Britez Mereles Derlis Dionicio
Britez Mereles Derlis Dionisio
Britez Morel Alejandro
Britez Pedro Javier
Britez Riquelme Juan Derlis
Britez Rodrigo Ariel
Britez Tello Andres Cristian
Britez Uliambre Juan Carlos
Britos Britez Carlos Concepción
Britos Gomez o Prieto Gomez Julio Cesar

Brizuela Caballero Teodoro
Brizuela Caballero Teodoro
Brizuela Dure Elio Arnaldo
Brizuela García Gregorio Marcelo
Brizuela Mendoza David
Brizuela Ortega Nestor David
Brizuela Ortíz Daniel
Brizuela Parra Rafael Ramon
Brizuela Romero Luis Marcelo
Brizuela Torres Victor
Burgos Galeano Alfirio
Burgos Juan Carlos
Burgos Lugo Carlos Ruben
Bustamante Gustavo Ramon o Domingo Gustavo
Bustamante Sanabria Francisco
Bustos Mario Ariel
Caballero Avalos Oscar
Caballero Avalos Oscar Javier
Caballero Aveiro Vicente Francisco
Caballero Caballero Carlos Alberto
Caballero Duarte Miguel Angel
Caballero Duarte Osvaldo
Caballero Enrique Javier
Caballero Franco Guillermo
Caballero Franco Guillermo Fidel
Caballero Garcia Nestor David
Caballero González Carlos
Caballero González Edgar
Caballero González Guido Antonio
Caballero Gutiérrez Claudio
Caballero Jorge Fernando
Caballero Maciel Epifanio
Caballero Oscar Dario
Caballero Ricardo
Caballero Rios Pedro Damian
Caballero Riquelme Pedro Felipe
Caballero Velazquez Diego Ariel
Caballero Victor Hugo
Caballero Villalba Antonio
Caballero Villasanti Darío
Cabaña López Miguel Angel
Cabaña Nestor Anibal
Cabañas Alarcon Miguel angel o Ramon Duarte Paredes
Cabañas Aquino Carlos
Cabañas Bogado Ignacio Miguel
Cabañas Bogado José Agustín
Cabañas Caballero Dario Alberto
Cabañas Carlos
Cabañas Carreras Sergio Diosnel
Cabañas Florenciano Fidel Cesar
Cabañas León José

Cabañas López Miguel Angel
Cabañas Marecos Genaro
Cabañas Saucedo Christian Daniel
Cabañas Saucedo Cristian Daniel
Cabral Diego Celestino o Soto Cabral
Cabral Frutos Demetrio Gustavo
Cabral González Milciades
Cabral Lezcano Dario Damian
Cabral Pastor
Cabral Ramirez Mario Dario
Cabrera Alcaraz Fabian
Cabrera Aldo
Cabrera Arnaldo Andres
Cabrera Benitez Ismael
Cabrera Bethge Joel Fabian
Cabrera Caballero Oscar Daniel
Cabrera Candado Hugo Baune
Cabrera Cano Jorge David
Cabrera Edgar
Cabrera Emigdio
Cabrera Ernesto Mario Maximiliano
Cabrera Espinola Oscar Damian
Cabrera Ferreira Romualdo
Cabrera González Mario Isidoro
Cabrera González Mario Isidoro o Cabrera Mauricio José
Cabrera Julio Cesar
Cabrera Leiva Ariel Alfredo
Cabrera López Juan José
Cabrera o Lovera Gonzalez Adilson
Cabrera Riveros Gabriel
Cabrera Riveros Juan Ramon
Cabrera Ruiz Diaz Milciades Ramon
Cabrera Urban Esteban
Cabrera Valiente Victor Manuel
Cabrera Vazquez Joel Dario
Cabrera Vera y Aragon Miguel Alfonso
Caceres Acosta Carlos o Juan Carlos Areco Acosta
Caceres Adolfo
Caceres Aguero Manuel
Caceres Alcides
Cáceres Alvarenga Juan Andrés
Caceres Brizuela Diego Antonio
Caceres Cabañas José Dolores
Caceres Carlos Rene
Cáceres César Miguel
Cáceres Chaparro Pedro Ismael
Cáceres Erico Javier
Caceres Espinola Leonardo Ariel
Caceres Fabian
Cáceres Falcon Gerardo Luis
Cáceres Fleitas Eligio

Caceres Fleitas Oscar Rodrigo
Caceres Gonzalez Mario Cesar
Caceres Gustavo
Cáceres Hugo Alberto
Cáceres Keniche Michael
Cáceres Kenichi Michael
Caceres Luis Benito
Caceres Miguel Angle
Caceres Ortiz Gualberto Ramón
Cáceres Rodríguez Rubén Darío
Cáceres Taboada Eugenio Sebastián
Cajes Hugo o Aniceto Franco Lugo
Calistro Benitez Pablo Dario
Calixtro Benitez Pablo Dario
Camara Ortiz Bernardo
Campos López Horacio María
Campuzano Cardozo Hugo Javier
Campuzano Martínez Francisco Fidel
Candia Antonio
Candia Arnaldo Javier
Candia Carlos Rubén
Candia César
Candia Edgar Sebastián
Candia Felix o Felipe
Candia Ferreira Carlos Ruben
Candia Jorge Esteban
Candia Nestor Fabian
Candia Pereira Alfonso Andrés
Candia Rigoberto
Cantero Aquino Hector Javier
Cantero Aquino Víctor Ramón
Cantero Benigno Javier
Cantero Cano Víctor Luciano
Cantero Ever Bernardino
Cantero Peña Roberto Carlos
Cantero Ramón
Cantie Carrillo Charles Didier
Cañete Alberto Ramón
Cañete Chamorro Jorge Amadeo
Cañete Chamorro José Milciades
Cañete Coronel Sergio Julian
Cañete Samudio José David
Cañiza Barrios Gustavo Adolfo
Cañiza Diego
Cañiza Otto Bernardo
Carballo Acosta Carlos Miguel
Carballo Figueredo Francisco
Carballo Flor Darío Javier
Carballo Javier Américo
Cardozo Acosta Isabelino Guadalupe
Cardozo Acuña Derlis Ramon

Cardozo Benitez Antonio Ramon
Cardozo Cabrera Ricardo Daniel
Cardozo Candia Cesar David
Cardozo Carlos Alberto
Cardozo Carlos Zacarias
Cardozo David
Cardozo González Felipe
Cardozo Gonzalez Genaro
Cardozo González Raúl
Cardozo Hugo Gabriel
Cardozo Lesmo Edgar Rene
Cardozo Mario Limpio Concepción
Cardozo Pineda Pablo Andrés
Cardozo Ramírez Cristhian Reinaldo
Cardozo Ramírez Cristian Reinaldo
Carduz Gallardo Carlos Domingo
Carmona Palacios Melner Silverio
Carmona Palacios Milner Silverio
Carrera Juan Angel
Carrera Sabino Gaspar
Carrillo César Zacarías
Carrillo Miguel Angel
Cartaman Martínez Milciades
Casafus Silvino Ramón
Casafus Villalba Silvino Ramón
Casau Alvarenga Alcides Daniel
Casco Gimenez Juan Pablo
Casco Nuñez Julio Cesar
Castillo Baez Aldo Javier
Castillo Ceferino
Castillo Encina Vicente
Castillo Galeano Antonio
Castillo Garcete Mario
Castillo Gimenez Miguel Angel
Castillo Gimenez Osvaldo Gabriel
Castro Goiriz Jorge Luis
Castro Gómez Ramón Isidro
Castro Goris Jorge Luis
Castro Goris Ramon Isidro
Castro Ramón Isidro
Castro Robles Jose Luis
Cazal Rivas Edgar Emilio
Centurion Chavez Hugo Gilberto
Centurion Cuevas Juan Alberto
Centurion Garcete Felix Rodrigo
Centurion Gonzalez Domingo David
Centurion José Domingo
Centurion Lopez Jose Domingo
Centurion Menese Orlando Dedamio
Centurion Ojeda Juan Carlos
Centurion Romero Rodrigo Rene

Centurion Santacruz Heraldo Antonio
Centurión Vera Miguel Angel
Centurion Villamayor Luis Maria
Céspedes Cristaldo Luis María
Cespedes Melgarejo Luis Alberto
Chamorro Benitez Oscar Ignacio
Chamorro Ever Ramón
Chamorro López Marcos Antonio
Chamorro López Marcos Gustavo
Chamorro Marcos Gustavo
Chamorro Mario Salomón
Chamorro Ramon Dario
Chaparro Arsenio Damian
Chaparro Duarte Enrique
Chaparro Rojas Diego Ariel
Chaparro Romero Arsenio Damián
Chavez Alvarenga Fredy Ramon
Chávez Ayala Víctor Alfredo
Chavez Azcona Francisco Javier
Chavez Benitez Amado Ricardo
Chavez Franco Humberto Santiago
Chavez Franco Juan Marcelo
Chavez Ocampos Rodolfo Ariel
Chavez Raul Milciades
Chavez Sánchez Carlos Alberto
Chavez Viveros Lucas Antonio
Chávez Wilfrido
Chenu Ruben Santos Daniel
Cheres Edemilson
Chiba Britez Cristino Camilo
Choi Young
Cipolla Benitez Cesar Augusto
Cipolla Benítez Julio Augusto
Colignon Petit Heic Alexander Paul
Colinas Feliciano
Collante Marecos German
Colman Gaston Maximiliano
Colman Irala Cristian Adriano
Colman Lezcano Mauro Milciades
Colman Miranda Cristian Francisco
Colman Néstor
Colman Valdez Wilfrido
Colman Velazquez Simon Pedro
Colman Victor Javier
Cook Ortiz Diego Martin Ricardo
Coria Gaete Adrián Daniel
Coria Gaethe Adrian Daniel
Coronel Alvarez Ramón
Coronel Armoa Nelson
Coronel Escobar Nelson Osvaldo
Coronel Guerrero Ramón Gustavo

Coronel Jara Eduardo Sebastian
Coronel Jorge Alberto
Coronel Martínez Fidelino
Coronel Oviedo Carlos Miguel
Coronel Quiroga Claudio
Coronel Ramirez Jorge Alberto
Coronel Ramirez Miguel
Coronel Ramon de Jesus
Coronel Saldivar Sergio
Coronel Sanabria José David
Coronel Velazquez Luis Alberto
Coronel Velazquez Mario Ruben
Coronel Velazquez Nelson
Correa Delgadillo Amalio Ruben
Correa Edgar David
Correa Escobar Adolfo Antonio
Corvalan Osta Francisco Javier
Cristaldo Olmedo José Ramón
Cristaldo Villalba Adan Bautista
Cristaldo Walter Ramon
Cristialdo Lider Osmar
Cuandu Martínez Benigno Fabian
Cubilla Carlos Salvador
Cubilla Roa Roberto Cesar
Cuevas Arias Carlos Alberto
Cuevas Fabio Ramón
Cuevas Pablo Esteban
Cuevas Quiñonez Hector Daniel
Curril Notario Adalberto
Curril Notario Adalberto Arnaldo
Da Silva Jorge
Da Silva Melo Abente Omar Rafael
Da Silva Richar Elias
Da silva Salgueiro Richar Elias
Davalos David Jimmy Alexis
Davalos Edil David
De la Cruz Carlos Raul
De los Santos Gimenez Nilton Victorino
De Oliveira Adenilson
Del Barco Caceres Douglas Merardo Cristhian
Del Valle Bernardo Antonio
Delgadillo Larrea Cirilo Alfredo
Delgado Antonio
Delgado Benitez Raimundo
Delgado Nolberto Alfonso
Delgado Rodolfo Manuel
Delgado Romero Jorge Martin
Delgado Romero Raul Emilio
DelValle Bernardo Antonio
Delvalle Mendoza Germán
Delvalle Reyes Carlos Daniel

Demant Sosa Rainhold Alfonso
Denis Benitez Dante Armando
Denis Varela Pedro Alcides
Depenvolpe Arguello Augusto Richard Nelson
Diarte Espinoza Juan Ramón
Diaz Britos Fernando Rene
Diaz Cañete Edgar Manuel
Diaz Carneiro Erasmo
Diaz Florentin Bernardo Serafin
Diaz Fox Derlis Alcides
Diaz González Christian David
Díaz Gonzalez Ricardo Manuel
Diaz Gregorio
Diaz Guillermo Luis
Díaz Héctor Manuel
Diaz Lázaro
Diaz Lucena Hugo Olegario
Diaz Mendoza Miguel
Diaz Montania Juan de los Santos
Diaz Rafael
Diaz Ramírez Manuel Gustavo
Diaz Ruben
Diaz Sánchez Agustin Ignacio
Díaz Villalba René
Dielma Acosta Alcides Manuel
Domenech Navarro Cesar David
Dominguez Abinagalde Claudio
Domínguez Blasido Ramón
Dominguez Bouga Blasido Ramon
Dominguez Bustos Antonio Héctor
Dominguez Del Valle Ricardo Antonio
Domínguez Ferreira Catalino
Domínguez Gerardo
Dominguez Jara Osvaldo
Dominguez Juan Manuel
Dominguez Morel José
Domínguez Pablo Cesar
Dominguez Piñanes Cristian
Domínguez Romero Oscar
Dominguez Salez Carlos Antonio
Dominguez Torres Cristhian Rafael
Dornellis Arevalos Rodrigo
Dos Santos Jimi Olando
Dos Santos Orlando
Dos Santos Orlando Jimmy
Dos Santos Orlando Jimy
Duarte Aguero Antenor
Duarte Aguilera Edgar Rafael
Duarte Arce Edgar
Duarte Arce Osvaldo
Duarte Aveiro Ireneo

Duarte Britez Ruben
Duarte Cáceres Rony Rodrigo
Duarte Carlos Manuel
Duarte Claudio Daniel
Duarte Collar Cristhian Ulice
Duarte Collar Cristhian Ulises
Duarte Derlis Antonio
Duarte Duarte Elisandro
Duarte Eligio
Duarte Estigarribia Walter Antonio
Duarte Fernandez Hugo Orlando
Duarte Flor Rafael Agustin
Duarte Florenciañez Víctor Manuel
Duarte Jorge Luis
Duarte Lopez Alcides
Duarte López Arnaldo
Duarte Oligorio
Duarte Pablo Gabriel
Duarte Paredes Juan Ramón
Duarte Paredes Julio Cesar
Duarte Paredes Pedro Ramón o Cabañas Alarcón
Duarte Paredes Ramón
Duarte Pedro Ramón
Duarte Penayo Cesario
Duarte Ramírez Benigno
Duarte Ramos Alfredo
Duarte Ramos Patricio
Duarte Rubén Sebastian
Duarte Saenger Germán Amado
Duarte Salcedo Tomas Alberto
Duarte Sosa Julio
Duarte Sugasti Santiago
Duarte Torres Edgar Agustín
Duarte Urban Mario Antonio
Duarte Valenzuela Carlos Manuel
Dueck Guenther Rudi
Dunjo Gómez Héctor Cristino
Duran Romero Victor Manuel
Duran Victor Manuel
Durañona Aquino Miguel Angel
Dure Gómez Bernardino
Dure López Celso
Echeverría Cabral Saúl Alem
Echeverria Esteban
Echeverria Ortiz Gustavo Adolfo
Echeverría Richard David
Eicenckolbl Richard Edgar
Elizeche Lacognata Antonio Carlos José
Elizeche Zayas Alfredo Manuel
Encina Villasanti Alfredo David
Enciso Cabrera Carmelo (o Ferreira)

Enciso Encina Jorge Gabriel
Enciso Fernandez Miguel
Enciso Medina Reinaldo
Enciso Sanguina Modesto Daniel
Enriquez Galeano Balbino
Enríquez Pereira David Federico
Escalante Verza Roberto Rodrígo
Escobar Brizuela Gabriel Maria
Escobar Emerson Roberto
Escobar Gonzalez Clementino
Escobar Gonzalez Clementino Luis
Escobar Guido Roberto
Escobar Ledezma Ever Raúl
Escobar Mancuello Milner Fidelino
Escobar Milner
Escobar Morinigo Antonio Damian
Escobar Nelson
Escobar Nuñez Gregorio Magno
Escobar Núñez Pedro Ismael
Escobar Ojeda Dario
Escobar Prieto Edgar Antonio
Escobar Saucedo Eimar Manuel
Escobar Vera Reinaldo
Escurra Báez Javier Genaro
Escurra Villagra Eladio Hernán
Espinola Aguayo Nelson
Espinola Alvarenga Hector Blas
Espinola Angel Gabriel
Espinola Baez Hugo Osvaldo
Espinola Benitez Diego Rafael
Espinola Fariña Victor
Espinola Flores Sergio Evaristo
Espinola Frutos Gustavo Daniel
Espinola Frutos Gustavo Daniel o Hugo Frutos
Espinola Guillermo
Espinola Jorge Adelio
Espinola Jorge Adelio o Dario Salomón Quintana
Espinola José Luis
Espinola Medina Guillermo
Espinola Mereles Francisco
Espinola Mora Osvaldo
Espinola Paredes Nestor Fabian
Espinola Pavon Benedicto
Espinola Resquin Richard Edgar
Espinola Sergio Antonio
Espinola Torres Sebastian
Espinoza Daniel
Espinoza Denis Cristian
Espinoza Gonzalez Miguel
Espinoza Gonzalez Miguel Angel
Espinoza Jorge Daniel

Esquivel Cristaldo Daniel Rodrigo
Esquivel Melgarejo Francisco
Esquivel Noguera Juan Jorge
Esquivel Nuñez Jorge Merced
Esquivel Silvero Aristides Ramón
Esquivel Silvero Ricardo Osmar
Estigarribia Alcides Ramon
Estigarribia Américo Alexis
Estigarribia Coronel Ricardo Ariel
Estigarribia Echeverria Francisco Gabriel
Estigarribia Fleitas Sergio Miguel
Estigarribia Osorio Gustavo
Estigarribia Pedro Pablo
Estigarribia Uran Americo Alexis
Estigarribia Velázquez Juan de Dios
Estigarribia, Enrique Teodoro
Falcon Jacquet Carlos David
Falcon Jorge Daniel
Farias Casco Angel Basilio
Farias Casco Lucio Felix
Fariña Acosta José Antonio
Fariña Acosta Juan Ramon
Fariña Alfonso Francisco Solano
Fariña Centurión Jorge Javier
Fariña Francisco Alberto
Fariña Gonzalez Joel
Fariña Gonzalez Juan Daniel
Fariña Paredes Marcos Francisco
Fariña Portillo Aldo Antonio
Fariña Rios Francisco Alberto
Fenshy victor
Feris Almiron Carlos Ramón
Fernandez Alvarez Jorge Mario Antonio
Fernández Antonio Concepción
Fernandez Caballero Osvaldo
Fernandez Caceres Arcadio
Fernández Félix
Fernandez Galeano Hernan Dario
Fernandez Garay Albino
Fernandez Helio
Fernandez Heriberto
Fernandez Leguizamon Francisco
Fernandez Martínez Emilio
Fernandez Ortiz Oscar Aparicio
Fernández Osvaldo
Fernandez Ramírez Héctor Daniel
Fernández Richar
Fernandez Richard
Fernández Rodrigo Ramón
Fernandez Ruben Joaquin
Fernandez Salinas Luis o Luis Fernandez

Fernandez Sergio Daniel
Fernandez Silva Pedro Antonio
Fernandez Sosa Ricardo Ruben
Ferrari López de Filippi Alejandro Miciad
Ferrari López de Filippi Alejandro Milciad
Ferreira Alonso Diego Armando
Ferreira Angel Dario
Ferreira Barreto Marco Antonio
Ferreira Barreto Marcos Antonio
Ferreira Bogado Carlos
Ferreira Bogado Carlos Inocencio
Ferreira Bogarin Victor Manuel
Ferreira Cabrera Fernando Apolinar
Ferreira Diana Sergio
Ferreira Diego Alejandro
Ferreira Eligio
Ferreira Encina Gustavo Asunción
Ferreira Figueredo Pedro
Ferreira Fleitas Jorge Luis
Ferreira Franco Enrique
Ferreira Franco Enrique Alberto
Ferreira Gimenez Edgar Gabriel
Ferreira Lesme Sindulfo Alcides
Ferreira Néstor Luis
Ferreira Oscar Inocencio
Ferreira Ramírez Oscar
Ferreira Riveros Cristian Alberto
Ferreira Ruben Gustavo
Ferreira Saldivar Reinaldo
Ferreira Sanguina Julián
Figueredo Alberto Damian
Figueredo Barrios Alejandro
Figueredo Cuevas Dejamir Asis
Figueredo Gauto Willian Alejandro
Figueredo Hugo
Figueredo Juan Ramon
Figueredo Melgarejo Hugo
Figueredo Morales David Daniel
Figueredo Morales Raul Sigfrido
Figueredo Morales Walter
Figueredo Richard Javier
Figueredo Ruiz Gugo
Figueredo Ruiz Hugo
Figueredo Vega o Vega Figueredo Sergio Daniel
Fleitas Barreto Eulalio
Fleitas Ferreira José Robert
Fleitas Galeano Carlos José
Fleitas López Miguel Arnaldo
Fleitas Ruben Dario
Fleytas Vader Dennis
Flor Mereles Alfredo

Florenciañez da Silva Marcelo
Florentin Aguero Pablo Alberto
Florentin Enciso José Damian
Florentín Espinoza, Christian Anastacio
Florentin Francisco
Florentin Gavilan Cristhian Joel
Florentín Ireneo
Florentin Martinez Cristian Bernard
Florentin Martínez Ever
Florentin Santillan Cesar
Flores Agustin
Flores Amarilla Arsenio Erico
Flores Barrios Denis Fabian
Flores Caceres Enrique Concepción
Flores Candado Juan Milciades
Flores Cristaldo German
Flores Darío Oscar
Flores Enrique Concepción
Flores Figueredo Aldo Damian
Flores Garcia Juan Reinaldo
Flores Mario David
Flores Martínez Máximo
Forcado Felix Cesar
Franco Barrientos Fidencio
Franco Cesar David
Franco Cesar David o Cesar Daniel
Franco Coronel Sixto
Franco Cubilla Cristhian Alfredo
Franco Cubilla Cristian Alfredo
Franco Espinola Andrés Roberto
Franco Fleitas Miguel Angel
Franco Francisco
Franco Gonzalez Hugo César
Franco Jorge Antonio
Franco Riquelme Juan Ramon
Fretes Britez Fernando
Fretes Britez Modesto
Fretes Juan Manuel
Fretes Oscar o Fretes Vera Adrián
Fretes Torres Anuncio Ramón
Fretes Vera Marcos Dario
Frutos Espinola Gustavo Daniel
Frutos Juan Ramon
Frutos Melgarejo Miguel
Frutos Ruben Dario
Gaboto Jorge Raúl
Galarza Aguilar Andres Reinaldo
Galeano Aquino Antonio Hipolito
Galeano Giménez Pedro Joaquín
Galeano Héctor Javier
Galeano Jara Derlis Santiago

Galeano Jara José
Galeano Leiva Aurelio
Galeano Marcos Luciano
Galeano Mario Manuel
Galeano Mendez Carlos Antonio
Galeano Merlo Reinaldo Ariel
Galeano Miranda Alvaro Ulises
Galeano Molinas Andres
Galeano Moscarda Gerardo Ariel
Galeano Nuñez Adrian Eugenio
Galeano Osorio Isaac
Galeano Osorio Jacob
Galeano Ozorio Isaac
Galeano Paredes Marcos Antonio
Galeano Pereira Alberto
Galeano Pereira Freddy Atilio
Galeano Pereira Fredy Atilio
Galeano Ramírez César Froilan
Galeano Ramon Emeterio
Galeano Riveros Nestor Alcides
Galeano Rojas José Ruben
Galeano Torres Merardo
Galvan Anselmo Pablo
Galvan Anselmo Paulo
Gamarra Armando Agustin
Gamarra García Pedro Alcides
Gamarra Gonzalez Adriano
Gamarra Gustavo Daniel
Gamarra Mongelos Alberto Daniel
Gamarra Riveros Pedro Ruben
Gamarra Rojas, Walter Cecilio
Gamarra Victor Zacarias
Gao Shujie
Gaona Jara Hugo Walberto
Garay Aguero Braian Manuel
Garay Barrios Oscar Daniel
Garay Carlos Raul
Garay Esteche Domingo
Garay López Ariel
Garay Zaracho Hector Ariel
Garay Zaracho Hector Daniel
Garcete Alvaro Martín
Garcete Miguel Angel Rene
Garcete Montania Martin
García Alfredo Ramón
García Arnaldo Andrés
García Benitez Juan Carlos
Garcia Benitez Octavio Adalberto
Garcia Cañete Blas Raul
Garcia Catalino o Preto Garcia Jacinto
Garcia Christian Andres

Garcia Eligio Antonio
García Fernández Arsenio
Garcia Gimenez Jorge Manuel
García Gómez Rafael Alfonso
Garcia Gomez Rafael Alfonzo
García Julio César
García Ortega César Eliseo
Garcia Rios Jorge Antonio
Garcia Salinas Antonio Patrocinio
Garica Santos Javier Ramón
Gauto Arzamendia Roberto Carlos
Gauto Dominguez Daniel
Gauto Elvio Agustin
Gauto Garay César Alcides
Gauto Insfrán Roberto Carlos
Gauto Olmedo Luis Antonio
Gauto Romero Milciades Gregorio
Gauto Villamayor Milciades Fautisno
Gavilan Benitez Ismael
Gavilán Florentín Fidel
Gavilan Florentin Victor
Gavilan Víctor
Gayoso Daniel
Gayoso Franco Alberto Alejandro
Genes Araujo Fernando Miguel
Genes Diaz Juan
Genes González Santiago
Gill Acosta Milciades
Gill Bogado Rody Alfredo
Gill López Cesar Vicente
Gill Ramón Javier
Gillen Francisco Javier
Gimenes Carballo Hector
Gimenez Alejandro Ruben
Giménez Alejandro Rubén
Gimenez Amarilla Victor Cesar
Gimenez Antonio
Gimenez Baez Isidro Isidoro
Gimenez Benitez Eligio Javier
Gimenez Blas Antonio
Gímenez Britez Raúl
Gimenez Cabrera Carlos Rubén
Gimenez Cabrera Mario Antonio
Gimenez Cabrera Nelsón Ramón
Giménez Cáceres Andrés
Gimenez Carballo Hector
Gimenez Cazal Pastor Ramon
Gimenez Derlis David
Gimenez Dominguez Francisco Javier
Giménez Esquivel Víctor Antonio
Giménez Estigarribia Raúl Alberto

Gimenez Fernando
Gimenez Ferreira Oscal Miguel
Giménez Giménez Dionisio
Gimenez Grance Oscar Anibal
Giménez Higinio
Gimenez Hugo Daniel
Gimenez José Alfredo
Gimenez Juan Carlos
Gimenez Julio Cesar
Giménez Luis
Gimenez Marco Antonio
Gimenez Marcos Antonio
Gimenez Martínez Orlando Ramón
Gimenez Mereles Tomas Augusto
Gimenez Ojeda Emiliano
Gimenez Ortiz Jorge Daniel
Gimenez Ramírez Ramón
Gimenez Ramírez Raul
Giménez Ramírez Rubén
Gimenez Rojas Ever Arnaldo
Giménez Ruben
Gimenez Saldivar Miguel Angel
Giménez Sánchez Julio César
Gimenez Sergio Daniel
Gimenez Vallejos German
Giménez Villalba Jorge Ramón
Glizt Velazquez Víctor Manuel
Godoy Escobar Mauro Alberto
Godoy Fernandez Jimy
Godoy Jara Diego Alberto
Godoy Lider
Godoy Medina Diego Joel
Godoy Roman Guillermo Ariel
Goezt Vera Carlos Alberto
Gomez Alberto Anastacio
Gomez Arce Agustin o Sanchez Arce
Gómez Ayala Milciades
Gomez Barreto Ricardo
Gómez Bernardo
Gomez Cristian David
Gomez Cubilla Alfredo
Gomez Dario Leonardo
Gómez Espinola Rubén Dario
Gómez Estrella Máximo Abdon
Gomez Francisco Antonio
Gomez Galeano Carlos Antonio
Gomez Guerrero Justino Gabriel o Riveros
Gómez Jorge
Gómez Juan Bernardo
Gómez Larroza Eliseo
Gomez Larroza Marcelo Daniel

Gomez Lezcano Pablo Rodrigo
Gomez Lopez Daniel
Gomez López Gustavo Javier
Gómez Ortega Federico Cayetano
Gomez Ortega Pedro Ramón
Gomez Ortigoza Pablino
Gómez Ortíz Pablino
Gómez Reyes Bernardo Julián
Gómez Riveros Roberto
Gomez Saldivar Claudio Ramón
Gomez Saldivar Diego Ramón
Gómez Salinas Flaminio
Gomez Segovia Carlos Domingo
Gomez Vera Mario Ruben
Gonzaga Lezcano Eligio Ramon
González Adolfo Ismael
Gonzalez Alberto Ramon
González Almirón Pedro Antonio
Gonzalez Alonso Juan Ramon
González Amarilla Fulvio
González Angel Concepción
Gonzalez Anibal Antonio
González Antonio
González Aquino Pablo
González Arévalos Federico
González Arnaldo Ramón
Gonzalez Ayala Victor Hugo o Ayala Go.
Gonzalez Baez Cristian Alexis
Gonzalez Benitez Oscar Armando
Gonzalez Bernal Hector Damian
Gonzalez Britez Carlos Roman
Gonzalez Caballero Virgilio
González Cabañas Alberto Roque
Gonzalez Cardozo Osvaldo Luis
González Catalino
Gonzalez Cespedes Agustin
González Charles Lisandro
Gonzalez Charles Lizandro
González Claudio
González José Luis
González Coronel Diego Eduardo
Gonzalez Cristhian Bernardo
Gonzalez Cristian Bernardo
Gonzalez Cuevas Gregorio
Gonzalez Curril Gilberto
González Denis Fernando
Gonzalez Derlis Osmar
Gonzalez Diaz Migdonio
González Diego Armando
González Duarte Darío Ramón
Gonzalez Edgar Ignacio

González Enciso Vicente Enrique
Gonzalez Esteban Albino
González Federico
González Ferreira David
Gonzalez Francisco Daniel
González Francisco Javier
González Franco Sixto
González Gallardo Pablo Bernardino
González Gimenez Arnaldo Andres
Gonzalez Gimenez Cesar Augusto
González Godoy Rodrigo Manuel
González Gómez Marino Gustavo
González González Angel o Hugo Alberto Cáceres
Gonzalez Gonzalez Cristino
González González Esteban Ruben
González González Ever Ezequiel
Gonzalez Gonzalez Juan Manuel
Gonzalez Hector Dario
Gonzalez Hector Ramón o Valentín Texeira
González Jorge
González Jorge Adalberto
Gonzalez José Antonio
Gonzalez José del Rosario
González José Luis
González José Marcos
González Juan Alfonso
Gonzalez Juan Antonio
González Juan Carlos
González Ledezma Daniel
Gonzalez Leguizamon Cesar David
González León Antonio
Gonzalez Lider Ruben
Gonzalez Lombardo Victor Manuel
González López Fabian German
González López Gustavo Javier
Gonzalez Luis del Rosario
Gonzalez Marciano Ramon
González Marco Antonio
González Marecos Juan Carlos
Gonzalez Marin Victor Hugo
González Mario Alcides
González Martín
Gonzalez Martinez Cristobal Diosnel
González Miguel
González Miguel Angel
González Nelson Daniel
González Nery Felipe
Gonzalez o Ocampos G. de los Santos
González Osmar
González Palma Derlis Danilo
González Portillo Carlos Alberto

González Ramírez Jorge Daniel
González Ricardo Martín
Gonzalez Roa Jorge Horacio
González Roberto Carlos
González Rodrigo María
González Rojas Cándido o Carlos Reyes
Gonzalez Rojas Diego Armando
González Rojas Gustavo Adolfo
González Rojas Héctor Fernando
Gonzalez Rolon Eleuterio
Gonzalez Rolon Patricio
Gonzalez Sanchez Guillermon Antolin o Rodrigo
Gonzalez Santacruz Jose Rene
González Santacruz Juan Alberto
Gonzalez Saucedo Aldo Ercilio
Gonzalez Sergio
Gonzalez Sergio Alcides
Gonzalez Severiano
González Silva Osvaldo
Gonzalez Talavera Carlos Francisco
González Toledo Porfirio
Gonzalez Vera Virginio
Gonzalez Vergara Jorge Gustavo
Gonzalez Victor Manuel
González Victor Ramón
González Villalba Daniel Osvaldo
Gonzalez Wilfrido Antonio o Romero
González Zelada Ruben
Grance Domingo Ramón
Guairare Noguera Silvio
Guanes Miguel Antonio
Guanes Quiñonez Hector Daniel
Guchi Ramírez Carlos Víctor
Guerrero Benitez Ivan Wilfrido
Guerrero Duarte Henry Gustavo
Guerrero Ferreira José Luis
Guggiari José Luis
Guillen Aldo Emiliano
Guillen Francisco Javier
Gutierrez Edgar Raul
Gutierrez Folles Marcos Antonio
Gutierrez Gómez Edgar Raúl
Guzmán Ayala Francisco Javier
Guzman Oscar
Haedo Angel Jose
Hansen Olmedo Hector Ruben
Herevia Lesme Jorge David
Herevia Lezme Jorge David
Hermosa Alcides Andres
Hermosilla Gimenez Hugo Enrique
Hermosilla Hugo Enrique

Hermosilla Veron Sergio Gustavo
Herrera Nelson Daniel
Ibañez Aldo Michael
Ibarra Angel Estéban
Ibarra Martínez Carlos Agustin
Ibarra Miguel Angel
Ibarra Ramírez Angel Esteban
Ibarra Zarate Victor Hugo
Ibarrola Cardozo Luis Antonio
Ibarrola Edgar Antonio
Ibarrola Ramos Victor Hugo
Insaurralde Colman Roque Anselmo
Insaurralde Fernandez Heriberto Gilberto
Insaurralde Jara Miguel Angel
Insaurralde Neson David
Insfran Acosta Santiago
Insfran Alcaraz Samuel Ramon
Insfran Amarilla Amado de Jesus
Insfran Amarilla Amado Jesús
Insfran Caceres Edgar Narciso
Insfran Caceres Ever Narciso
Insfran Carreres Marco Antonio
Insfran Ferreira Evaristo
Insfran Gaona Elio Ramón
Insfran Parra Gustavo
Insfran Torres Martin
Insfran Vera Desiderio
Irala Duarte José de Jesús
Irala José de Jesús
Irala Juan Daniel
Irala Juan Manuel Daniel
Irala Leandro
Irala Peralta Walter Adrian
Irala Ruíz Hugo Manuel
Irigoyen Guillen Joaquin
Jang Jae Hyuk
Jara Alcaraz Francisco
Jara Angel
Jara Barreto Hugo Daniel
Jara Centurion Cesar Gustavo
Jara Elvis Marcelo
Jara Emiliano Rubén
Jara Esteban de Jesús
Jara Fernandez José Amado
Jara Galeano José Concepción
Jara Galeano Juan Carlos
Jara Garay Angel
Jara Lopez Jose Alberto
Jara Lopez Walter Osvaldo
Jara Marcos
Jara Mario Arsenio

Jara Mendieta Sergio Dario
Jara REcalde Armando Evaristo
Jara Recalde Miguel Angel
Jara Román Aníbal Ramón
Jara Santacruz, Emiliano Rubén
Jara Vera Sergio Damian
Jara Zayas Jorge Daniel
Jara Zelada Miguel Angel
Jimenez Claudio Ramon
Kenal Alvarenga Arnaldo David
Kim Jun Ho
Krahn Bogado Denes Dietrih
Kreser Ozuna Rodrigo Nicolas
La Torre Richard Damian
Lagraña Amarilla Agustín
Lagraña Martínez Jorge Osmar
Lara Peña Cornelio
Larrea Fausto Felipe
Larrea Julio Alfredo
Larrea López Nelsi
Larrea Pereira Enrique Daniel
Larrea Pereira Enrique Daniel y/o Enrique Fidel
Larrea Pereira Enrique Fidel
Larroza Blasido Ramón
Laubrent Escobar Juan Manuel
Lauren Escobar Juan Manuel
Ledesma Cristian David
Ledezma Insfran Cristian Raimundo
Ledezma Iturbe Fredy
Ledezma Rivas Israel
Leguizamon Avalos Federico Luciano
Leguizamon Bogado Nestor Gustavo
Leguizamon Cespedes Mario Antonio
Leguizamon Coronel Victor Daniel
Leguizamon Derlis Daniel
Leguizamon Gustavo
Leguizamon Gustavo Adolfo
Leguizamon Juan Alberto
Leguizamon Juan Marcelo
Leguizamón La Torre Derlis Daniel
Leguizamon Latorre Derlis Daniel
Leguizamon López Catalino
Leguizamón López Gerónimo Miguel
Leguizamón Mendieta Wilfrido Leonor
Leguizamon Ovelar Pablo
Leguizamon Ovelar Reinaldo
Leguizamon Ramírez Juan Bautista
Leguizamon Santacruz Roberto
Leiva Amarilla Teodoro Misael
Leiva Araujo Derlis Dionisio
Leiva Britos Wilson Nair

Leiva Coronel José Domingo
Leiva Cristian
Leiva Espinola Cristhian
Leiva Espinola Ireneo
Leiva Fernández Carlitos
Leiva Galeano Ever Agustin
Leiva Juan Rafael
Leiva Meza Estanislao Ignacio
Leiva Miguel Angel
Leiva Nelson
Lencina Alberto Ramón
León Gumercindo
León Juan Blas
León Juan David
León Montiel Jorge Arturo
León Sanchez Nestor Fabian
Lesme José Luis
Lezcano Alcides Dario
Lezcano Bernal Gabriel
Lezcano Blas
Lezcano Blas Arnaldo
Lezcano Domingo Atilio
Lezcano Duarte Claudio
Lezcano Marecos Jhonny Orlando
Lezcano Martínez Silvino Estanislao
Lezcano Mongelos, Claudio Mauricio
Lezcano Soria Rodolfo
Lezcano Troche Enrique
Lezcano Varela Arnaldo Daniel
Lezcano Willian
Lieguizamon Ramírez Juan Bautista
Linares Gustavo Ariel
Llanes Pedro Luciano
Llanes Romero Milciades
Lombardo Nelson Pedro
López Albornoz Vidal
López Balbuena Juan Ramón
López Britez Arsenio
López Brizuela Wilson Gustavo
Lopez Carmelo
López Castillo Pedro
López César Alberto
López Chamorro Gustavo Javier
Lopez Derlis Ruben
López Díaz Gustavo Porfirio
López Duarte, César
López Dure Cesar Alberto
López Ferreira Francisco Solano
López Figueredo Alcides
Lopez Franco Nery Salvador o Lopez Osmar
López Gamarra Wilfrido Lorenzo

López Hugo Antonio
López Hugo Ricardo
López Isidro
López Jacquet Carlos Evaristo
López Javier
López Jorge
López José Alberto
López López Adelio Daniel
Lopez Lugo Rigoberto
Lopez Luis Gabriel
Lopez Martinez Victor
López Martínez Víctor Daniel
López Martinez Viviano
López Miguel Angel
López Néstor Fabián
López Ocampos Gustavo Javier
Lopez Orlando
Lopez Orrego Cosme Ramón
López Orrego Hugo Osmar
López Ortega Julio Cesar
Lopez Ortiz Eusebio
López Pablo Aníbal
López Paredes Amado Antolin
López Recalde Miguel María
López Rodas Gustavo Javier
Lopez Roque Elias
López Sánchez Osvaldo Vicente
Lopez Silvero Isabelino
López Torres Sergio Dario
Lopez Veron Osmar
Lovera Araujo Luis Santiago
Lovera Cañete Victorino
Lovera Gonzalez Adilson Osmar
Lovera González Adilson Osmar (o Cabrera)
Lovera Muñoz Alcides
Lovera Muñoz Felipe Neri
Lucarelli Echar Miguel Damian
Lugo Acosta Carlos Alberto
Lugo Acosta Fidel Antonio
Lugo Caceres German
Lugo Jara Enrique Ireneo
Lugo Juan Ramón
Lugo Julio Cesar
Lugo Martinez Arnaldo Daniel
Lugo Mendoza César Bernardo
Lugo Nuñez Osvaldo
Lugo Olmedo Luis Gilberto
Lugo Peralta Miguel Angel
Machado Ovelar Julio
Machado Zapata Celso Daniel
Machado Zapata Luis Ramon

Maciel Benitez Juan Carlos
Maciel Centurion Pantaleon
Maciel Centurión Salustiano
Maciel Ovelar Salustiano
Maciel Roberto Carlos
Maciel Sanchez Juan
Maidana Alberto Anastacio
Maidana Andres
Maidana Benítez, Jorge Daniel
Maidana Denis Nolberto
Maidana Miguel Angel
Maidana Pedro Fernando
Maldonado Cristhian Ceferino
Maldonado Díaz David
Maldonado Gustavo Martin
Maldonado Maciel Javier
Maldonado Mario Javier
Mallorquin Gómez Marcos
Malorquin Oscar
Mancuello Escobar Milciades
Mancuello Guido Carlos
Mancuello Ovidio Rene
Mancuello Roa Hugo Derlis
Maqueda Romero Sher Michel
Mareco Almada Oscar Diosnel
Mareco Vera Luis Alberto
Marecos Almada Oscar Diosnel
Marecos Duarte Deiby
Marecos Silvera Hector Fernando
Marin Bernardo
Marin Patiño Anibal Arnaldo
Marín Patiño Santiago Dionisio
Marín Torales Víctor Alfredo
Mario Carlos Miguel
Marmol Insaurralde Richar Eder
Marmol Inzarraulde Richard Eder
Marmolejo Acosta Cipriano
Martínez Acosta Máximo
Martinez Alberto David
Martinez Alcides
Martinez Alvarenga Alcides
Martinez Alvarez Jose de los Santos
Martínez Alvarez Julio Cesar
Martínez Aranda Porfirio
Martinez Arias Alfredo Javier
Martínez Atanacio
Martínez Ayala Osmar Dario
Martínez Ayala Sixto
Martínez Ayeza Daniel
Martinez Barboza Jorge
Martinez Benitez Jorge Alfredo

Martínez Bernar Oscar Luis
Martínez Blanch Domingo Fabian
Martínez Blas Eduardo
Martinez Carlos Alberto
Martinez Carlos Victoriano
Martínez Chávez Félix Isabelino
Martínez Christhian
Martinez Crecencio
Martínez Cristian Dario
Martínez Cristian Ruben
Martínez Cubas Claudio Ramón
Martínez Daniel
Martinez Enrique Javier
Martínez Estigarribia Jacinto
Martínez Fabio Rolando
Martínez Fermín
Martínez Fernando David
Martínez Ferreira Celso David
Martínez García Víctor Manuel
Martínez Gayoso César Osmar
Martínez Gayoso Raúl Fernando o Cesar Osmar
Martínez González Americo
Martínez González Nestor
Martinez Insfran Fausto y/o Fausto Martinez Insfran
Martínez Juan Alberto
Martinez Juan José
Martínez Julio César
Martínez Julio Maria
Martínez Limeño Paulino
Martinez Llanes Derlis Marciano
Martinez López Leoncio
Martínez Lorenzo Ramón
Martínez Medina Carlos Alcides
Martínez Medina Ignacio Alberto
Martínez Miguel Angel
Martínez Mora José Domingo
Martínez Moraez Lorenzo R. o Wilfrido Rubén
Martínez Moraez Lorenzo Ramón
Martínez Moraez Wilfrido Ruben
Martínez Ojeda Fabio Rolando
Martínez Olazar Favio Rolando
Martínez Pedro Gabriel
Martínez Pereira, Diego Alcala
Martínez Piris César Rolando
Martínez Quiñonez Arnaldo
Martínez Ramón o Esquivel Martínez Ramón
Martínez Ricardo
Martinez Riveros Santiago Ramon
Martínez Roberto o Ricardo
Martinez Samaniego Pedro Arsenio
Martínez Saucedo Jorge Aurelio

Martínez Segovia Jonny Alexander
Martinez Sergio Ever
Martínez Sergio Javier o Sergio Ever
Martínez Sosa Cesar Osvaldo
Martínez Sosa Roque Gabriel
Martínez Sosa Serafin Manuel
Martínez Telles Eladio César
Martínez Vasquez Jorge Fabián
Martínez Vicente Ramón
Martínez Víctor Manuel
Martínez Wilfrido Ruben
Martinez Zarza Humberto Andres
Mascareño Gonzalez Victor o Caballero
Matto David Salomon
Matto Salgueiro Pedro Ramón
Medina Acosta Juan Carlos
Medina Alcides
Medina Armando Diosnel
Medina Arnaldo Andres
Medina Arturo
Medina Benitez Ariel Lorenzo
Medina Bento Edgar Manuel
Medina Bracho Juan Marcelo
Medina Cabrera Esteban
Medina Cabrera Juan Esteban
Medina Cabrera Pedro Ramon
Medina Carlos Anibal
Medina Carlos Roberto
Medina Diego Joel o Godoy Medina Diego
Medina Ferreira Osmar
Medina Flores Luis Javier
Medina García Marcial Felipe
Medina José Antonio
Medina Julio Cesar
Medina Kraupper José Luis
Medina Mereles Higinio
Medina Mereles Luis
Medina Miguel Angel
Medina Monzon Carlos
Medina Ocampos Adrián José
Medina Ortiz Cristhian Gustavo
Medina Ortiz Maximiliano Gabriel
Medina Oscar
Mel Garejo Julio Cesar
Melgarejo Aguilar Julio Cesar
Melgarejo Aldo Alberto
Melgarejo Centurion Mateo
Melgarejo Cristian Alcides
Melgarejo Ever Eduardo
Melgarejo José Augusto
Melgarejo Julio Cesar

Melgarejo Nestor Fabián Asunción
Mencia González Angel David
Mendez Aranda Ismael
Mendez Aranda Raúl Osmar
Mendez Araujo Walter Ramon
Mendez Arnaldo
Mendez Bernardino
Méndez Carlos
Méndez Chamorro Alfredo Teobaldo
Méndez Falcón Rubén Francisco
Méndez Felipe Santiago
Mendez Irala Gregorio
Mendez Martínez Derlis David
Mendez Morales Juan Ramon
Méndez Nelson
Mendez Villalba Eudelio
Mendieta Bogado Dario Ramón
Mendieta Vera Blas Gilberto
Mendieta Villasanti Antonio Pablo
Mendoza Jorge Antonio
Mendoza Nuñez Virgilio y/o Victor Rodriguez
Mendoza Pedro Ramon
Mendoza Raul
Mendoza Ricardo Melanio Fermin
Mendoza Rojas Jorge Simeon
Mendoza Rubén Dario
Mendoza Sugasti Pedro Daniel
Mercado Fernández Edilson Castaño
Mereles Aguayo Carlos Alberto
Mereles Gustavo
Mereles Osvaldo Antonio
Mereles Ramón Eliseo
Meres Alfonzo Hugo Ever
Merlo Galeano Reinaldo Ariel
Merlo Ramírez Alcides René
Meyer Baliero Eduard Rafael
Meza Bazan Nestor David
Meza Britez Fabian Amos
Meza Derlis Raul
Meza Doncert José Guillermo
Meza Florentin Isidro
Meza Leonardo Fernando
Meza López Anibal Osmar
Meza López Esteban
Meza Martínez Carlos Ruben
Meza Páez Hugo Arnaldo
Meza Paez Robert Antonio
Meza William Rodrigo
Micod Gustavo Rosalino
Mieres Alfonso Hugo Ever
Mieres González Manuel

Mieres González Máximo Manuel
Mieres Gonzalez Venancio
Miño Ayala Andres
Miño Cardozo Sixto Javier
Miño Cristhian de Jesús
Miño Franco Javier Alcibiades
Miño Silva Arnaldo o Arnaldo Niño Silva
Miralles Castillo Sixto Celestino
Miranda Baez Julio Cesar o Jorge José Martínez
Miranda Mereles Mariano Antonio
Mochet Fariña Cristobal Ramon
Molas Aceval Juan carlos
Molas Demetrio Eugenio
Molinas Alcides Rubén
Molinas Diaz Luis Alberto
Molinas Valdez Blas Antonio
Molinas Zarate Ever Ramón
Mongelos Luis Alberto
Mongelos Quintana Fabio Daniel
Mongelos Riveros Oscar
Monges Jara Marcos Antonio
Monges Riveros Oscar
Monges Víctor Manuel
Montania Santander Gervacio Ramón
Montiel Coronel Ever Romualdo
Montiel Meza Felipe Nery
Montol Caballero Carlos Alberto
Monzon Armando Ramon
Monzon Diego Rodrigo
Monzon Gonzalez Francisco Javier
Mora Coronel Rafael Nicodemus
Mora Espinola Osvaldo
Mora García Francisco Ramón
Mora Martinez Miguel Angel
Mora Urban Fidel Ramón
Morales Amarilla Carlos Arturo
Morales Arnardo Ariel
Morales Baez José Miguel
Morales Espinola Heriberto Ariel
Morales Fabio Bobi o Heriberto Ariel
Morales Francisco
Morales Gustavo Aurelio
Morales Oscar Luis
Moreira Francisco Javier
Moreira Gonzalez Victor Rafael
Moreira Rotela Amado
Morel Cristian Andres
Morel Duarte Ruben
Morel Duarte, Daniel Aníbal
Morel Elisalde Edgar
Morel Luna Anibal

Morel Luna Anibal David
Morel Luna Oscar Ariel
Morel Luna Reinaldo Javier
Morel Rubén Darío
Morel Santander Aldo
Morel Santander Remigio
Moreno León David Arsenio
Moreno Ortega Juan Ramón
Moreno Ozorio Cristino
Moreno Ozorio Nelson
Morinigo Cardozo Alberto
Morinigo DelValle Jose Domingo
Morinigo Miranda Sergio
Morinigo Rojas Claudio Ramón
Morinigo Vera Elvio
Muñoz Borja Rolando
Narvaja Gonzalez Hector Dario
Navarro López Andres
Navarro Moraez Sergio Vincent
Navarro Nuñez Marco Antonio
Noe Correa Aldo
Noguera Galeano Hector Andres
Noguera Galeano José Roberto
Noguera Luis Mauricio Justiniano
Nontol Caballero Carlos Alberto
Núñez Alcaraz Ramón Feliciano
Nuñez Alvarez Feliciano Ramón
Nuñez Benitez Javier Dario
Nuñez Bobadilla Daniel
Nuñez Casco Wilson
Nuñez Centurion Carlos Alberto
Nuñez Clarito Celestino
Nuñez Claudio Andres
Nuñez Cristian
Nuñez Cristian Daniel
Nuñez Diaz Ricardo
Nuñez Esteban
Nuñez Flores Cristian Daniel
Nuñez Gonzalez Miguel Angel
Nuñez Jara Francisco Ulises
Nuñez Jorge Luis
Nuñez Mariano
Nuñez Miranda Jorge Raul
Nuñez Oscar Ariel
Nuñez Paiva Julio Cesar
Nuñez Pedrozo Roni Ariel
Nuñez Raul Antonio
Nuñez Roa Alberto Raúl
Nuñez Roa Raul Alberto
Nuñez Servin Elvio Vidal
Nuñez Vazquez Charles Humberto

Nuñez Víctor Hugo
Nuñez Victor Ramon
Ocampo Arévalos Rafael
Ocampos Fleitas Pedro Isaac
Ocampos González de los Santos
Ocampos Roa Victor
Ocampos Romero Cristian Alberto
Ocampos Sosa Adriano
Ocampos Vera Rufino Fabian
Ocampos Victor Hugo
Ochipinchi Arias Juan José
Ojeda Acevedo Cesar Fidelino
Ojeda Acosta Marcos Antonio
Ojeda Adorno Derlis Ariel
Ojeda Alcides
Ojeda Garcete Bernardo Rafael
Ojeda Juan Marcelo
Ojeda Maldonado Estanislao Alcides
Ojeda Saldivar Alfredo
Ojeda Saldivar Juan Manuel
Ojeda Sanchez Arnaldo
Olcelli Ramos Juan Marcelo
Oleñid Redes Pablo
Oleñik Redes Pablo
Oleynik Redes Pablo
Oliver Benitez Christian Ramón
Oliver Benitez Cristian Ramon
Oliver Benitez Víctor Andrés
Olmedo Benitez Carlos Milciades
Olmedo Curtido Marcelo
Olmedo Hugo Ariel
Olmedo Jara José Alcides
Olmedo José Manuel
Olmedo Mariano Luis
Olmedo Oviedo Hugo Ariel
Olmedo Oviedo Hugo Marcelo
Olmedo Rivas Gabriel David
Olmedo Silva Cesar Armando
Oroa Blas Ignacio
Oroa Riquelme Blas Ignacio
Orrego Cristian Ramón
Ortega Armoa Carlos Adrian
Ortega Cabral Roberto
Ortega Domínguez Juan Angel
Ortega Fernandez Luis Claudio
Ortega Gustavo Andres
Ortega Jara Ronaldo
Ortega Matías Isaac
Ortega Páez Francisco
Ortellado Ernesto Luis
Ortigoza Juan Antonio

Ortis Hilario
Ortiz Acosta Aldo Rafael
Ortiz Almada Ever Gustavo
Ortiz Aristides Ramon
Ortiz Bael Rodrigo
Ortiz Bernal Aristides Ramón
Ortiz Britos Robert Ramon
Ortiz Campora Wilfrido
Ortiz Cesar Javier
Ortiz Colman Walter David
Ortiz Cristhian
Ortiz dos Santos Miguel Angel
Ortiz Duarte Julio Cesar
Ortiz Estigarribia Felipe Nery
Ortiz Eugenio
Ortíz Ever
Ortiz Federico
Ortiz Florencio
Ortiz Galeano Dario Serafin
Ortiz Galeano Julio Cesar
Ortiz Garcete Francisco Nery
Ortiz Garcia Felix Gerardo
Ortiz Gonzalez Angel Javier
Ortiz Gustavo
Ortiz José Rodrigo
Ortiz Juan Ariel
Ortiz Juan Daniel o Ariel
Ortiz Julio Cesar
Ortiz Ledezma Elvio Luis
Ortiz Luis Ramon
Ortíz Maximiliano
Ortiz Mendez Mario Alberto
Ortiz Miguel Angel
Ortiz Miranda Heber Gustavo
Ortiz Ojeda Juan Ismael
Ortiz Olazar Ruben Antonio
Ortiz Olazar Willian de Jesús
Ortiz Olmedo Ever Leonardo
Ortiz Oscar Florencio
Ortiz Portillo Silvio Sabino
Ortiz Rolon Luis Javier
Ortiz Romero Hugo
Ortíz Rubén o Cristhian Daniel Núñez
Ortiz Sabino
Ortíz Sánchez Roberto
Ortiz Talavera Milder Nilson
Ortiz Vargas Eduardo
Orue Mendez Porfirio
Orue Nestor Diosnel
Orue Oviedo Jorge Daniel
Orue Ramirez Carlos Alcides

Orue Sanabria Saturnino
Osorio López Ricardo Osmar
Osorio Mendoza Nolberto Gustavo
Osorio Mereles Hector Ramon
Otazo Benitez Juan Alberto
Otazu Alfonso Javier Catalino
Otazu Arguello Fidel
Otazu Benitez Alberto o Juan alberto
Otazu Benítez Venancio
Otazu Venancio
Ovando Enciso Julio César
Ovando Montiel Blas Adrian
Ovelar Cabrera Dionicio Ramon
Ovelar Cristaldo Marcelino
Ovelar Cristian
Ovelar Denis Marcelino
Ovelar Francisco Andres
Ovelar González Domingo Alfredo
Ovelar González Rolando Javier
Ovelar Miranda Sergio
Ovelar Serafini Constantino Asuncion
Oviedo Amarilla Hugo
Oviedo Ayala RAnulfo
Oviedo Barreto Juan Alfredo
Oviedo Gielow Rodi Alcidio
Oviedo Moreno Juan Ariel
Oviedo Ocampos Miguel Salvador
Oviedo Recalde Atilio Javier
Oviedo Rody Alcidio
Ozorio Meza Ricardo
Ozorio Rios Bernardino
Ozuna Angel
Ozuna Arnaldo Javier
Ozuna Benitez Richard Osmar
Ozuna Lopez Edgar Enrique
Padilla Martínez Ivan Eduardo
Paez Cristino
Paez Montania Enzo Rolando
Paez Salinas Venacio
Paiva Vera Julio César
Palacios Armoa Jorge Luciano
Palacios Ozuna Angel
Palacios Ruiz Díaz Jorge Ramón
Palma Aguero Freddy Wilfrido
Palma Enciso Isidro
Palma Gonzalez José del Pilar
Palma Hugo
Paniagua Britez Milciades
Paniagua López Miguel Fernando
Paniagua Pedro Ramon

Paniagua Sergio Rodrigo
Paniagua Víctor
Paradera Pereira Mario Sindulfo
Paredes Alvarez Arnildo
Paredes Arguello Oscar
Paredes Eduardo
Paredes Farias Diego Alejandro
Paredes Farias Mariano de Jesús
Paredes Heriberto
Paredes Hugo Ramon
Paredes Leonardo Ramón
Paredes Mario Esteban
Paredes Miranda Juan Ramon
Paredes Noceda Mario
Paredes Noceda Mario Sebastian
Paredes Ozuna José o Paredes González
Paredes Rafael Antonio
Paredes Velazquez Heriberto
Paredes Víctor Ruben
Parini Mendienta Sergio Daniel
Parini Mendieta Carlos Osmar
Parini Mendieta Juan Carlos
Parini Mendieta Sergio Daniel
Parini Mendieta Victor Manuel
Patiño Fretes Guillermo Daniel
Patiño Julio César
Patiño Osvaldo Daniel
Patiño Ricardo
Paula Gómez Ramón
Paulus Gilberto Michel y/o Cristian Paulus Rolon
Paulus Rolon Gilbert Michel
Paulus Rolon Gilberto Michel
Pavon Ortiz Hugo Rodrigo
Pavón Valeriano Matías
Pazzo Caballero Cristian Nestor
Penayo A. Manuel de Jesús o Miguel Angel Aguero
Penayo Alvarenga Robert Dario
Penayo Ever
Penayo Ortellado Juan Bautista
Penayo Silva Euclides
Penayo Vallejos Alcides Ramón
Peña Ferreira Eugenio
Peña Galeano Cristian Marcelino
Peña Galeano Cristian Marcelo
Peña Gavilan Ruben Dario
Peña Gomez Cristian Marcelo
Peña Gómez Cristhian Marcelino
Peña Pedro Iván
Peña Victor Rene
Peralta Ayala Richard Israel
Peralta David

Peralta Delgado Héctor Antonio
Peralta Dominguez Jose Maria
Peralta Dominguez Jose Maria o Domingo
Peralta Domínguez Nelson Darío
Peralta Edgar German
Peralta Gomez David Alberto
Peralta Javier Armando
Peralta Milciades Arnaldo
Peralta Nelson Javier
Peralta Ricardo Gabriel
Peralta Richar Gabriel
Peralta Richard Gabriel
Pereira Amado Zacarias
Pereira Aveiro Rolando Javier
Pereira Baez Nery Felipe
Pereira Esquivel Reinaldo
Pereira Fernandez Carlos Fabian
Pereira Galeano Alberto Silvino
Pereira Galeano Marcos Ruben
Pereira Jorge Daniel
Pereira López da Silva Osvaldo
Pereira Meza Esteban Benjamin
Pereira Miguel Angel Ramon
Pereira Ocampo Marcos Dario
Pereira Ortellado Rafael
Pereira Quiñónez Luis Adolfo
Pereira Rolón Raúl Fernando
Pereira Trinidad Aldo Ernesto
Pereira Vinardo Calixto
Pereira Vinardo Florencio
Perez Alfredo Fernando
Perez Barreto Anibal Crecencio
Perez Gimenez Juan Antonio
Perez Leongino
Perez Rivarola Jose Emilio
Perez Victor Antonio
Perini Horacio
Pesoa Oscar Fabian
Pesoa Pablo Daniel
Petri Gonzalez Thomas Peterson
Petruccelli Avalos Francisco Javier
Pianderi Gaona Diego Marcial
Pianderi Paredes Jorge Manuel
Pimentel Ortega Juan Ramon
Pineda Figueredo Humberto
Piris Guanes Sergio Ramon
Piris Moreira Francisco Javier
Poletti Dominguez Sergio David
Portillo Aldo Javier
Portillo Ariel Esteban o Raul Esteban
Portillo Benitez Celmidio Rene

Portillo Diaz Aldo Javier
Portillo Fariña Ramón
Portillo Gonzalez Derlis Gabriel
Portillo Gustavo Ramón
Portillo Mercado Cesar Marcelo
Portillo Peralta Eustaquio
Portillo Raul Esteban
Portillo Sosa Osvaldo
Portillo Sosa Simon
Preito Gomez Julio Cesar
Prieto César
Prieto Gómez Julio César
Prieto Lugo Belisario
Prieto Medina Cesar Ruben
Prieto Medina Marcial Primitivo
Quintana Jorge Daniel
Quintana Leguizamon José Eduardo
Quintana Salinas Gustavo Enrique
Quintana Vergara Oscar Rodrigo
Quiñonez Benitez Pedro Patrocinio
Quiñonez Cristian Alcides
Quiñonez Espinola Derlis Fernando
Quiñonez Gustavo Ramón
Quiñonez Maldonado Leonardo Eugenio
Quiñonez Rotela Cristhian Alcides
Quiñonez Valdez Reinaldo
Quiroga Cesar Luis
Quiroga Rivas Cristian Javier
Quiroga Ruiz Cesar Luis
Quispe Challapa Oscar
Ramirez Alvarez Fabio Gabriel
Ramirez Bogado Marcelo Silvestre
Ramírez Claudio Ramón
Ramirez del Valle Arturo Fabian
Ramírez Facetti Claudio Ramón
Ramírez Francisco
Ramírez Gamarra, Milciades Ramón
Ramírez Joel David
Ramírez Jorge
Ramírez Juan Carlos
Ramírez Lovera Hugo Adolfo
Ramírez Marcelo Silvestre
Ramírez Marín Carlos Alfredo
Ramirez Meza Anselmo Federico
Ramírez Meza Roberto Jaime
Ramírez Monzón Cristhian Fabián
Ramírez Ojeda Carlos Milciades
Ramirez Ortiz Anibal Cayetano
Ramírez Roberto Carlos
Ramírez Roberto Jaime
Ramírez Ruiz Pablo Rafael

Ramírez Salinas Juan Manuel
Ramírez Santacruz Manuel de Jesús
Ramirez Sergio Teodoro
Ramírez Soto Edgar
Ramírez Valdez Víctor Catalino
Ramírez Víctor Arnulfo
Ramírez Víctor Ranulfo
Ramos Domínguez Julio Cesar
Ramos Gimenez Jorge Augusto
Ramos Portillo Carlos Martin
Ramos Rojas Felipe Santiago
Ramos Veron Carlos Ramon
Recalde Amarilla Juan Valentin
Recalde Cabrera Roque
Recalde Casimiro Osmar
Recalde Hugo Javier
Recalde Irala Diego Sebastian
Recalde Juan Ramon
Recalde Mora Juan Manuel
Recalde Ovelar Oscar Ariel
Recalde Ramos Pedro David
Recalde Ricardo Alejandro
Recalde Vazquez Jorge Guillermo
Reclade Ovelar Oscar Ariel
Rejala Paez Derlis
Relezcano Carlos Roberto
Resquin Bernardo Agustin
Resquin Luis Rubén
Reveiro Villamayor José Antonio
Revero Villamayor José Antonio
Reyes Alvarez Ramón
Reyes Eduardo
Reyes Felix Alberto
Reyes Roig Félix Alberto
Reyes Roitg Felix Alberto
Reyes Rojas Carlos
Riego Paniagua Emilio Jacobo
Rios Cabrera Antonio
Ríos Cabrera Marcelo
Ríos Céspedes Carlos Luis
Ríos Duarte Gilberto
Rios Luis Alberto
Rios Salinas Julio Cesar
Riquelme Aldo Enrique
Riquelme Bordon Ramón
Riquelme Drugett Paulo Cesar
Riquelme Fernandez Tomas Valentin
Riquelme Fleitas Hector Ruben
Riquelme Flores Robert Cristhian
Riquelme Portillo Bernardino
Riquelme Ramírez Cesar Eduardo

Riquelme Raul Enrique
Rivarola Castillo Mario Pablino
Rivarola Figueredo Richard rolando
Rivarola Gauto Edgar Antonio
Rivarola Ibarra Jorge Antonio
Rivarola Jara William
Rivarola Leguizamon Martin David
Rivarola Martinez Diego
Rivas Angel
Rivas Britez Ariel Hernan
Rivas Celso Ramón
Rivas González Cipriano
Rivas Roberti Ramón
Rivas Zarza Cesar Damian
Riveros Armoa Augusto Antonio
Riveros Caballero Marciano Antonio
Riveros Edgar Dario
Riveros Irrazabal Victor Ramón
Riveros José Antonio
Riveros Rojas Walter Javier
Riveros Sánchez Pedro Damian
Riveros Servin Ignacio Ramón
Riveros Toledo Amado Robert
Riveros Vera Roman
Roa Benitez Beato
Roa Garcia Antero Daniel
Roa Garcia Antonio Daniel
Roa Gonzalez Amado
Roa Isasi Arsenio Daniel
Roa José Luis
Roa Martínez Oscar Samuel
Robledo Martínez Damian
Robles Maldonado Fernando Adrián
Rodas Alvarenga Carlos
Rodas Diaz ronald alfredo
Rodas Florentino Antonio
Rodas Roman Juan Javier
Rodriguez Acosta Osvaldo
Rodríguez Aguero Carlos Ariel
Rodríguez Aguero Juan Carlos
Rodríguez Almiro
Rodríguez Antonio Alberto
Rodriguez Arce Eugenio Gustavo
Rodríguez Ayala Hugo Nelson
Rodríguez Benitez Alfredo
Rodríguez Benítez Ramón Domingo
Rodríguez Carlos Ariel
Rodríguez Fidel Herminio
Rodríguez Francisco Nery
Rodriguez Insfran Carlos Alberto
Rodríguez Jorge

Rodríguez Juan Alberto
Rodríguez León Carlos Javier
Rodríguez Martínez Juan Alberto
Rodríguez Miño Hugo Enrique
Rodriguez Nelson
Rodríguez Nestor Daniel
Rodríguez o Escalante Verza Roberto Rodrigo
Rodríguez Ojeda Richar Ramón
Rodríguez Paniagua Oscar David
Rodriguez Rodriguez Gustavo Ramon
Rodríguez Sánchez Guillermo Antolín
Rodriguez Vergara Juan Esteban
Rodríguez Zarate Modesto
Roig Gavilán Silvio Daniel
Rojas Alfredo Raúl
Rojas Andino Aristides Rafael
Rojas Aquino Juan Carlos
Rojas Arnaldo de Jesús
Rojas Ayala José Domingo
Rojas Ayala Ricardo Concepción
Rojas Bernardo
Rojas Cristian Eduardo
Rojas del Valle José Luis
Rojas Espinola Jorge
Rojas Estigarribia Niño Anibal
Rojas González Alcides Amadeo
Rojas López Eleno
Rojas Martinez Sergio Naval
Rojas Oscar Daniel
Rojas Pablo Emanuel
Rojas Palma Lucio
Rojas Pineda Miguel Angel
Rojas Quiñonez Cristian Lorenzo
Rojas Quiñonez Eduardo Atilio
Rojas Rivarola Jorge Antonio
Rojas Torres Ricardo Eugenio
Roldan Francisco
Roleta Gomez Ramon Concepción
Rolon Amarilla Miguel
Rolon Baez Pedro Marcelo
Rolon Demetrio
Rolon Gilberto Michel Paulus
Rolon Jorge Daniel
Rolon Morel Justo Gabriel
Rolon Oscar Ariel
Rolón Riveros Rigoberto
Rolon Villasanti Benito
Rolon Villasanti Plutarco
Roman Acosta Cristhian Ariel
Roman Barreto Pablo
Roman Barrios Juan Alcides

Roman Barrios Nestor Fabian
Román Bustamante Domingo Gustavo
Roman Paredes Nery Daniel
Roman Paredes Nestor Damian
Roman Pedro Marcial
Roman Portillo Carlos Martin
Roman Quiñonez Henry Antonio
Román Ricardo
Román Vera Isidoro
Roman Victoriano
Romero Alvarez Juan Bautista
Romero Cornelio
Romero Cristhian
Romero Cubilla Alberto Ramon
Romero Cubilla Juan Ramón
Romero Domínguez Cristobal
Romero Enciso Rodolfo
Romero Ferreira Arnaldo Andres
Romero García Carlos Raúl
Romero Gerardo
Romero González Jorge Daniel
Romero Jorge Daniel
Romero Juan Angel
Romero Leguizamon Carlos Alberto
Romero Lugo Gerardo Javier
Romero Mendoza Pedro Ramón
Romero Meza Nestor Javier
Romero Rodriguez Agustin
Romero Rotela Marcos Antonio
Romero Velazquez Cornelio
Romero Vera Victor Antonio
Rosa Aquino Alfredo o Aquino Alfredo
Rosano Mayer Esteban Nicolas
Rosi Gómez Abel
Rotela Ayala Armando Javier
Rotela Ayala Domingo Valvino
Rotela Cubilla Diego Armando
Rotela Gomez Ramón Concepción
Rotela Jara Víctor Regis
Rotela Montiel Nestor Fernando
Rotela Oscar
Rotela Ramirez Miguel Angel
Ruiz Diaz Andres Fabian
Ruiz Diaz Arias Vicente Cerafin
Ruiz Diaz Carlos Javier
Ruiz Díaz Francisco Ismael
Ruiz Diaz Gomez Francisco Ismael
Ruiz Diaz Gonzalez Rodolfo Ramon
Ruiz Diaz Levy Francisco Leopoldo
Ruiz Díaz Miguel Angel
Ruíz Díaz Nilton Ariel

Ruiz Diaz Oscar Eleuterio
Ruíz Díaz Ramos Arturo Samuel
Ruiz Díaz Sánchez Oscar Eleuterio
Ruiz Díaz Torres Julian Wilberto
Ruiz Diaz Usvaldo Jose
Ruiz Diaz Viñales Anibal
Ruiz Ediberto
Ruiz Muñez Epifanio
Ruíz Ramos Julio David
Ruiz Rios Primo Fidel
Ruiz Rolon Diego Emilio
Ruiz Santacruz Victor
Saavedra Bareiro Simon
Salcedo Alberto Eulalio
Saldívar Bogado Gustavo Adolfo
Saldivar Duarte Miguel Angel
Saldivar Larrea Emilia Agusto
Saldivar Larrea Emilio Augusto
Saldívar Ojeda Alfredo
Salgado Morinigo Gustavo
Salgado Valdiveso Weimar Ariel
Salinas Aguayo Cesar Wilfrido
Salinas Aguayo Silvio Cipriano
Salinas Ayala Rubén
Salinas Gayoso Miguel Angel
Salinas Gustavo
Salinas Julio Cesar
Salinas Miguel
Salinas Rodríguez Sergio
Salinas Rubio Ever Luis
Salomón González Víctor Antonio
Samaniego Caballero Jorge Antonio
Samaniego Gonzalez Waldemar
Samaniego Pineda Hugo Fernando
Samaniego Rojas Pablo Emanuel
Samaniego Valenzuela Albino
Samaniego Velazquez Héctor Domingo
Samudio Brigido Roque
Samudio Cristhian Daniel
Samudio Gustavo
Samudio Juan Carlos
Samudio Riveros Robertino
Samudio Zalazar Fabio
Sanabria Acuña Juan Angel
Sanabria Benitez Hugo
Sanabria Diaz Sergio Guzman o German
Sanabria Estigarribia Ever Hugo
Sanabria Figueredo Reinaldo Gabriel
Sanabria Godoy Víctor Santiago
Sanabria González Merardo Gabriel
Sanabria Gonzalez Ubaldo Domingo

Sanabria Gustavo Silvestre
Sanabria Ivan Marcelo
Sanabria Jorge Antonio
Sanabria Mauricio
Sanabria Ovelar Francisco Javier
Sanabria Riquelme Cirilo Alberto
Sanabria Romero
Sanabria Sergio Eduardo
Sanabria Silgueiro Ivan Marcelo
Sanabria Silguero Ivan Marcelo
Sanabria Toledo Gustavo Ramón
Sánchez Alfredo Samuel
Sánchez Benitez Abel Leonardo
Sánchez Diego Ariel
Sanchez Gonzalez Cesar Emanuel
Sanchez Hernando
Sanchez Lezcano Luis Miguel
Sánchez Luis Alberto
Sanchez Mendoza Lorenzo
Sanchez Miguel Angel
Sanchez Silguero Carlos Alberto
Sanchez Torales Benjamin o Enrique
Sanchez Torales Enrique
Sander Nuñez Ricardo Antonio
Sandoval Diego Osvaldo
Sandoval Ortega Evert Daniel
Santacruz Ayala feliciano
Santacruz Guzman Angel Rubén
Santacruz Hugo César
Santacruz Penayo, Dionicio
Santacruz Victor Manuel
Santander Acosta Jorge Ariel
Santander Escobar Marcos Felipe
Santander Zárate Néstor Adir
Santi Cubilla Rosalino
Santos Paredes Reinaldo
Sarabia Arrua Fulgencio Luis
Sarubbi Villalba Julio César
Saucedo Aguirre Osvaldo Daniel
Saucedo Ramos Victor Armando
Segivia Noguera Diego Bernabe
Segovia Daniel David
Segovia Dario Ramón
Segovia Jimenez Carlos Patricio
Segovia Lugo Daniel David
Segovia Noguera Diego Bernabe
Segovia Peloso Eliseo Hernan
Segovia Quintana Alfredo
Segovia Rolon Mario Ariel
Segovia Santacruz Luis Alberto
Segovia Soto Derlis Gabriel

Servian Leite Joel Esteban
Servian Ortíz Pedro
Servin Cristhian
Servin Gonzalez Cristian David
Servin Javier Mauricio
Servin Juan Ramón
Servin Marcos Christian
Servin Mauricio Javier
Shirai Olmedo Rolando Rene
Silguero Demetrio Ricardo
Silva Aquino Juan Carlos
Silva Arnaldo Niño
Silva Bobadilla Gerardo Ramón
Silva Favio
Silva Fretes Robert
Silva Ocampos Oscar
Silva Oroa Salvador Antonio
Silva Sanchez Gerardo
Silva Sanguinas Juan Carlos
Silva Sinforiano
Silva Villalba Saturnino Vicente
Silvano Velazco Carlos
Silvero Cardozo Edgar Vidal
Soilan Ibañez Joel David
Soler Gallardo Derlis Steven
Soler Gallardo Joel Rodrigo
Solis Avila Adolfino Armando
Solis Duarte Norberto
Solis Víctor Manuel
Solis Víctor Manuel o Mauricio Javier Servin
Soljancin Molinas Eduardo Mateo
Sosa Alfonso Aristides
Sosa Benitez Valentin
Sosa Cardozo Catalino Isidoro
Sosa Díaz Mauricio
Sosa Fernández Alberto Miguel
Sosa Francisco Benjamin
Sosa Franco Pedro Eugenio
Sosa Gerardo German
Sosa Isabelino
Sosa Jorge Manuel
Sosa Leiva Carlos Ramón
Sosa Martínez Hugo
Sosa Osvaldo Daniel
Sosa Pérez Julián
Sosa Rotela Hector Vidal
Sosa Rotela Marcial
Sosa Silvero Julio Cesar
Sosa Tapia Víctor Aníbal
Sosa Vera Carlos Daniel
Sosa Víctor Aníbal

Sosa Yoni
Sotelo Francisco
Sotelo Oscar
Soto Cabañas Mario Rene
Soto Gustavo
Soto Julio Cesar
Soto Manuel de los Santos
Souza Silvero Julio Cesar
Suarez Amarilla Elias
Suarez Cristaldo Alberto Gabriel
Taboada Gonzalez Hugo Diosnel
Taboada Gonzalez Julio Cesar
Talavera Cabrera Javier
Talavera Martínez Derlis Manuel
Tama Portillo, Juan Pablo
Tande Acosta José Manuel
Tellez Oscar Ramon
Texeira Valentín
Texeira Vicente
Tillería Miguel Angel
Toledo Cabañas Ramón de Jesús
Toledo Carlos Alberto
Toledo Fernandez Faustino
Toledo Fernandez Roberto
Toledo Francisco Javier
Toledo Gonzalez Agustin Bernardino
Toledo Jorge Daniel
Toledo Leongino
Toledo Pedro Alcantara
Toñanez Benjamin
Toñanez Jonathan
Torales Diaz Hector Daniel
Torales Edgar
Torales Federico
Torales Gomez José Maria
Torales González Juan Erico
Torales Irala Silvio Ramon
Torales Máximo Ramón
Torales Núñez Federico
Torales Ramon Asuncion
Torales Richard David
Torales Sanabria Celedonio
Torales Sanabria Cresencio
Torales Sanabria Walter Fabián
Torraca Ruiz Diaz Mauro Albino
Torres Aquino Buenaventura
Torres Ayala Pedro Ramón
Torres Balbuena Epifanio
Torres Claudio Israel
Torres Diaz Moura Juan Pablo
Torres Dominguez Victoriano

Torres Dominguez Victorino
Torres Espinola Gustavo Adolfo
Torres Espinoza Gustavo Adolfo
Torres Fernandez José Mercedes
Torres Fretes Julio Cesar
Torres Gimenez Isidro Ramón
Torres Gonzalez Luis Antonio
Torres Jacquet Victor Ricardo
Torres Limpio
Torres Orlando
Torres Oscar
Torres Portillo Genaro
Torres Rolón Gustavo
Torres Rolon Gustavo Sindulfo
Torres Santacruz Carlos Ramón
Trinidad Acuña Ruben Dario
Trinidad Jara Mauro Eligio
Trinidad Sosa Dario Ramon
Trinidad Talavera Jorge Aníbal
Troche Carlos Ramon
Troche Martínez, Hernán Ramón
Troche Morel German
Troche Morel Oscar de los Santos
Troche Orue Cristhian
Troche Ramos Jorge
Trujillo Martínez Hugo
Tucci Rodas Gerardo
Uliambre Caballero Mario Andres
Vaida Sánchez Luis María
Vaida Velazquez Jorge Raúl
Valdez Arce Cristhian Eleno
Valdez Cantero Miguel Angel
Valdez Diego Walter
Valdez Guarin Favio
Valdez Gustavo Ariel
Valdez Medina José Luis
Valdez Oscar Daniel
Valdez Perez Vicente Isaac
Valdez Rodas Rodolfo Andres
Valdez Sanguina Agustin
Valdovinos González Eusebio
Valiente Adalberto
Valiente Aranda Oscar Alexis
Valinotti Torres José Luis
Vallejos Cubilla Oscar Damian
Vallejos Derlis
Vallejos López Victor Ever
Vallejos Ortega Fernando
Vallejos Roman Guillermo Damian
Vallejos Ruiz Justino
Vandamme Diego David

Varela Carlos
Varela Carlos o Juan Carlos Acosta
Varela Pereira Francisco Javier
Varela Tomas
Vargas Caballero Anderson Augusto
Vargas Duarte Enrique
Vargas Ferreira Gabriel
Vargas Leiva Francisco
Vargas Michel Tidyo
Vargas Néstor Damián
Vargas Nuñez Sixto
Vargas Quintana Martin
Vazquez Acuña Asunción
Vazquez Acuña Miguel Angel
Vazquez Cabañas Ramón
Vázquez Gustavo Adolfo
Vazquez Hector Ramon
Vazquez Nelson Rodrigo
Vazquez Peña Junior
Vazquez Rojas Tomas Antonio
Vazquez Vazquez Oscar Dario
Vega López Evelio
Velazquez Alderete Carlos Cesar
Velazquez Almada Pedro Ramón
Velazquez Aquino Moises
Velazquez Arnaldo
Velazquez Bauza o Bauza Velazquez Desiderio Greg.
Velázquez Benegas Víctor Manuel
Velázquez Díaz Nelson Javier
Velazquez Juan Ramon
Velazquez Lesme Luis Julio
Velazquez Marcelino
Velázquez Martínez Pantaleón
Velázquez Oviedo Fermin Eriberto
Velazquez Pedro Oscar
Velazquez Rossito Ramón Librado
Velázquez Toledo Julio
Venialgo Sosa Martín
Vera Adrian Diego Hernan
Vera Amado
Vera Aquino Carlos Daniel
Vera Bareto Fabio Ramon
Vera Barreto Alcides
Vera Barreto Alcides Nery
Vera Barreto Alcides Nery o anibal Cayetano Ramirez
Vera Barreto Favio Ramon
Vera Barreto Gustavo Andres
Vera Barreto Nery Alcides
Vera Barreto Nery Alcides o Pedro Daniel
Vera Benítez Alberto o Gustavo Adolfo Martínez
Vera Benitez Enrique Daniel

Vera Benitez Osvaldo
Vera Burgos Herminio
Vera Cabañas Cirilo Daniel
Vera Cabrera Willian Bernardo
Vera Cristhian Hernan
Vera Diaz Nelson
Vera Diego Adrian Hernan
Vera Eduardo
Vera Escobar Alejandrino
Vera Franco Milder Alfonso
Vera Galeano Hugo Miguel
Vera Garay Cesar Luis
Vera Gayoso Guido Rene
Vera Gimenez Osmar Luis
Vera Gonzalez Alejandro o Osmar López Veron
Vera González Fernando Daniel
Vera Gutiérrez Miguel Angel
Vera Nuñez Ignacio Manuel
Vera Quintana Hugo Antonio
Vera Ricardo Javier
Vera Ruben Antonio
Vera Ruiz Ramon
Vera Soto Benito
Vera Vergaga Oscar
Verdejo Ramirez Francisco
Verdun Edgar Norbeto
Verdun Landolfi Fabian Roberto
Verdun Piris Donota Rodrigo Tomas
Vergara Florentin Benicio
Vergara Lopez Edgar Diosnel
Vergara Samaniego Edgar David
Vergara Sanchez Luis Fernando
Vergara Villalba Juan Manuel
Veron Aguilar Juan Carlos
Veron Fleitas Diego Orlando
Verza Juan Eduardo
Verza Pereira Jorge Nicolás
Viera Portillo Marco Antonio
Vilalba Riquelme Eduardo Valentin
Villaba Gonzalez Luis Alberto
Villagra Cáceres Jorge
Villagra José
Villagra Julio
Villagra Portillo Victor Vidal
Villalba Alcides
Villalba Antonio Enrique o Enrique A.
Villalba Benegas Ramón
Villalba Cordoba Blas Ceferino
Villalba Edgar Luis
Villalba Espinoza José Luis
Villalba Florenciañez o Villarta Villarta Carlos

Villalba Franco Cristian Ariel
Villalba Frutos Juan Marcelo
Villalba Gerardo Luis
Villalba Gonzalez José Elias
Villalba Gonzalez Luis Alberto
Villalba Hugo Rolando
Villalba José
Villalba Julio César
Villalba López Esteban Dario
Villalba Martínez Alfredo Ariel
Villalba Ortiz Lucio Ramon
Villalba Pedro Ramón
Villalba Quintana Walter Derlis
Villalba Rios Edgar Romon
Villalba Riveros Ariel Sebastian
Villalba Salinas Francisco Ismael
Villalba Salinas Rolando
Villalba Silva Saturnino Vicente
Villalba Teodulo
Villalba Vargas José Ariel
Villamayor Víctor Hugo
Villanueva Bolaños Claudio Ramon
Villanueva Dafonseca Sixto Salvador
Villanueva Miguel Angel
Villanueva Rivas Sixto Salvador
Villar Brizuela Victor Daniel
Villar Lopez Cristian Vidal o Cristian
Villar Lopez Joaquin David
Villarta Ayala Julio César
Villarta Florenciañez Carlos Ariel
Villasanti Armindo
Villasanti Cristhian Domingo
Villasanti Duarte Julio César
Villasanti Estigarribia Anastacio
Villasanti Estigarribia Fernando
Villasanti Estigarribia Teodoro
Villasanti Zayas Julio Osvaldo
Villasboa Chapparro Raul Vicente
Villaverde Valenzuela Ramón Ignacio
Viveros Vezquez Carlos Dario
Wagner Medina Cesar Osmar
Yahari Jorge
Yegros Hector David
Yegros León Héctor David
Yegros Vergara Bonifacio
Yorqui Caballero Fernando David
Yorqui Fernando David
Zalazar Cesar Daniel
Zalazar Domic Cesar Daniel
Zalazar Domicq Cesar Daniel
Zalazar Espinola Rodrigo Martin

Zalazar Galeano Alberto Federico
Zalazar Ronei David
Zaracho Alberto Daniel
Zaracho Barreto Victorino
Zaracho Denis Esteban
Zaracho Gauto Víctor Javier
Zaracho Torres Víctor Hugo
Zaragoza Guillen Derk Gabriel
Zaragoza Medina Juan de Dios
Zararias Barcovich Miguel Enriquel
Zarate Britez Hercelio
Zarate Britez Hercelio o Mario Francisco
Zarate Coronel Agustin Salomon
Zarate Fernández Heriberto
Zarate Garay Cristhian Marcelo
Zarate Gutiérrez Catalino
Zarate Marcos Eduardo
Zarate Mario Francisco o Zarate Hercel
Zarate Molinas Ramon Ever
Zarate Morel Gustavo Ramon
Zárate Roque Daniel
Zarate Velazquez Osvaldo Luis
Zarza Delgado Eleno Eduardo
Zarza Francisco Marnuel o Zarza María
Zarza Luis Sergio
Zarza Luján Eladio
Zarza Sanabria Francisco Mariano
Zarza Soria José Richard
Zarza Viveros Juan Carlos
Zayas Ayala Hugo Alberto
Zayas Ayala Walberto o Hugo Zayas
Zayas Encina Cristian Alfredo
Zayas Rubén Darío
Zayas Salinas Raúl
Zayas Vacazur Secundino
Zeballo Alfonso
Zeballos Gimenez Angel Marcos
Zelaya Estigarribia Juan Manuel
Zelaya Flores Candido Ulice
Zelaya Flores Candido Ulises
Zimberly Juan Alberto
Zoilan Ibañez Joel David
Zorrilla Arredondo Alfredo
Zorrilla Gonzalez Agustin Daniel
Zorrilla Molas Edgar Cristino
Zorrilla Molas Ruben
Zorrilla Riveros José Antonio
Zorrilla Ruben
Zorrilla Vera Luis Alberto
Zorrillas Molas Ruben

APPENDIX II

Inmates named in the judgment of the *Juzgado de Primera Instancia en lo Civil y Comercial de Noveno Turno, S. D. No. 652*, of July 31, 1998, that gave place to the generic *hábeas corpus* resource filed by the Tekojojá Foundation	
1.	Acosta Christian
2.	Acosta Felipe Rubén
3.	Acuña Acosta Luis Ariel
4.	Acuña Fernández Felix
5.	Acuña Gerardo Asunción
6.	Aguilera Espinoza José de la Cruz
7.	Aguilera José Eduardo
8.	Alcaraz Rubén Darío
9.	Alcaraz Vera Pedro Ramón
10.	Alvarez Pérez Mario
11.	Amarilla Bogado Oscar Andrés
12.	Amarilla Centirón Miguel Angel
13.	Amarilla Giemenez Hugo Ricardo
14.	Amarilla Vásquez Silvino
15.	Aquino Derlis Luis
16.	Aquino González Juan
17.	Aranda Prieto Francisco Javier
18.	Aranda Recalde Ramón Alberto
19.	Arce Cirilo
20.	Arguello Silva Cristian
21.	Arzamendia Benitez German
22.	Baez Aranda Ismael
23.	Baez Daniel
24.	Baez Irala Víctor Manuel
25.	Baez Portillo Darío Jovito
26.	Balbuena Miguel
27.	Barreto Leonardo
28.	Belotto Rolando Francisco
29.	Benítez Barúa Juan Víctor
30.	Benítez Candia Juan Carlos
31.	Benítez Casco Delmes Javier
32.	Benítez Enrique Raúl
33.	Benítez Ever Hugo
34.	Benítez Giménez Ramón Richard
35.	Benítez Gómez Jorge
36.	Bogado Benítez Osmar
37.	Bogarín Sixto Antonio
38.	Britez Uliambre Juan Carlos
39.	Brizuela García Gregorio Marcelo
40.	Caballero Riquelme Pedro Felipe

41.	Cabañas Aquino Carlos
42.	Cabañas Caballero Darío Alberto
43.	Cabañas Saucedo Cristian Daniel
44.	Cabrera Candado Hugo Baune
45.	Cáceres Erico Javier
46.	Cáceres Fleitas Eligio
47.	Cáceres Hugo Alberto
48.	Cáceres Keniche Michael
49.	Cáceres Rodríguez Rubén Darío
50.	Cáceres Toboada Eugenio Sebastián
51.	Cámara Ortiz Bernando
52.	Campos López Horacio María
53.	Candia, Edgar
54.	Candia, Félix
55.	Cantero Benigno Javier
56.	Cantero Cano Víctor Luciano
57.	Cardozo Cabrera Ricardo Daniel
58.	Carrera Sabino Gapar
59.	Casafus Silvino Ramón
60.	Centurión Chavez Hugo Gilberto
61.	Céspedes Cristaldo Luis María
62.	Chavez Alvarenga Fredy Ramón
63.	Chavez Sánchez Carlos Alberto
64.	Colman Valdez Wilfrido
65.	De Oliveira Adenilson
66.	Díaz Lázaro
67.	Díaz Montania Juan de los Santos
68.	Díaz Ramírez Manuel Gustavo
69.	Díaz Sánchez Agustín Ignacio
70.	Domínguez Ferreira Catalino
71.	Domínguez Pablo César
72.	Dornellis Arévalos Rodrígo
73.	Duarte Flor Rafael Agustín
74.	Duarte Florenciañez Víctor Manuel
75.	Duarte Paredes Juan Ramón
76.	Echeverría Richard David
77.	Elizeche Zayas Alfredo Manuel
78.	Escobar Mancuello Milner Fidelino
79.	Espinola Fariña Víctor
80.	Espinola Resquin Richard Edgar
81.	Esquivel Melgarejo Francisco
82.	Estigarribia Coronel Ricardo Ariel
83.	Fernández Silva Pedro Antonio
84.	Ferreira Barreto Marcos Antonio
85.	Ferreira Duarte Eligio
86.	Figueredo Gauto Wiian Alejandro
87.	Florentín Espinoza Cristian Anastacio
88.	Florentín Santillán César
89.	Flores García Juan Reinaldo
90.	Flores Martínez Máximo
91.	Forcado Félix César

92.	Fretes Torres Anuncio Ramón
93.	Gaboto Jorge Raúl
94.	Galiano Pereira Fredy Atilio
95.	Garay Barrios Oscar Daniel
96.	García Arnaldo Andrés
97.	Giménez Equivel Víctor Antonio
98.	Giménez Estigarribia Raul Alberto
99.	Giménez Ferreira Oscar Miguel
100.	Giménez Juan Carlos
101.	Giménez Vallejos German
102.	Gómez Bernardo
103.	Gómez Estrella Máximo Abdón
104.	Gómez Larroza Eliseo
105.	Gómez Riveros Roberto
106.	Gómez Saldívar Claudio Ramón
107.	Gómez Saldívar Diego Ramón
108.	Gómez Segovia Carlos Domingo
109.	González Cagbañas Alberto Roque
110.	González Charles Lizandro
111.	González Curril Gilberto
112.	González Francisco Javier
113.	González Jorge Adalberto
114.	González Juan Carlos
115.	González León Antonio
116.	González López Gustavo Javier
117.	González Osmar
118.	González Toledo Porfirio
119.	Guairare Noguera Silvio
120.	Hermosilla Giménez Hugo Enrique
121.	Hermosilla Verón Sergio Gustavo
122.	Ibarra Ramírez Angel Esteban
123.	Insfran Gaona Elio Ramón
124.	Jara Emiliano Rubén
125.	Jara Mario Arcenio
126.	Lequizamon Ovelar Pablo
127.	Leiva Amarilla Teodoro Misael
128.	Leiva Esñinola Cristhian
129.	Leiva Miguel Angel
130.	Lezcano Mareco Jhonny Orlando
131.	Lezcano Soria Rodolfo
132.	López Balbuena Juan Ramón
133.	López Dure César Alberto
134.	López Javier
135.	López José Alberto
136.	Lugo Jara Enrique Ireneo
137.	Maciel Sánchez Juan
138.	Maldonado Cristhian Ceferino
139.	Maldonado Maciel Javier
140.	Mancuello Roa Hugo Derlis
141.	Martínez Daniel
142.	Martínez Pirís César Rolando

143.	Martínez Ricardo
144.	Martínez Zarza Humberto Andrés
145.	Medina Flores Luis Javier
146.	Medina Mereles Higinio
147.	Medina Mereles Luis
148.	Méndez Carlos
149.	Méndez Irala Gregorio
150.	Mendoza Ricardo Melanio Fermín
151.	Mieres González Máximo Manuel
152.	Mieres González Venancio
153.	Miranda Baez Julio César o Jorge José Martínez
154.	Monges Riveros Oscar
155.	Morales Oscar Luis
156.	Morel Rubén Darío
157.	Morel Santander Aldo
158.	Morinigo Rojas Claudio Ramón
159.	Noguera Luis Mauricio Justiniano
160.	Nuñez Benitez Javier Darío
161.	Nuñez Clarito Celestino
162.	Nuñez Cristian
163.	Oleñid Redes Pablo
164.	Olmedo Benitez Carlos Milciades
165.	Olmedo Hugo Ariel (herido)
166.	Olmedo Jara José Alcides
167.	Oroa Blas Ignacio
168.	Ortiz Britos Robert Ramón
169.	Ortiz Sánchez Roberto
170.	Otazú Benítez Venancio
171.	Paiva Vera Julio César
172.	Palacios Ruíz Díaz Jorge Ramón
173.	Palma Enciso Isidro
174.	Paredes Arguello Oscar
175.	Parini Mendieta Juan Carlos
176.	Paulus Rolón Gilberto Michel
177.	Peña Gavilán Rubén Darío
178.	Peralta Delgado Héctor Antonio
179.	Pérez Giménez Juan Antonio
180.	Portillo Díaz Aldo Javier
181.	Prieto Gómez Julio César
182.	Quiñonez Maldonado Leonardo Eugenio
183.	Ramírez Bogado Marcelo Silvestre
184.	Ramírez Francisco
185.	Ramírez Lovera Hugo Adolfo
186.	Ramírez Ruíz Pablo Rafael
187.	Ramírez Víctor Arnulfo
188.	Riquelme Bordón Ramón
189.	Riquelme Drugett Paulo César
190.	Rivarola Ibarra Jorge Antonio
191.	Rivarola Martínez Diego
192.	Rivas Britez Ariel Hernán

193.	Roa Isasi Arsenio Daniel
194.	Rodríguez Benítez Ramón Domingo
195.	Rodríguez Jorge
196.	Rodríguez Paniagua Oscar David
197.	Rojas Aquino Juan Carlos
198.	Rojas Arnaldo de Jesús
199.	Rojas Pineda Miguel Angel
200.	Romero Cubilla Juan Ramón
201.	Romero Domínguez Cristóbal
202.	Ruíz Díaz Miguel Angel
203.	Ruíz Díaz Nilton Ariel
204.	Ruíz Díaz Torres Julián Wilberto
205.	Salinas Rodríguez Sergio
206.	Salomón González Víctor Antonio
207.	Sánchez Diego Ariel
208.	Sánchez Miguel Angel
209.	Santi Cubilla Rosalino
210.	Segovia Lugo Daniel David
211.	Servian Leite Joel Esteban
212.	Servin Javier Mauricio
213.	Solís Víctor Manuel
214.	Soto Gustavo
215.	Taboada González Julio César
216.	Toledo Fernández Faustino
217.	Toledo Fernández Roberto
218.	Toledo Leongino
219.	Torres Jacquet Víctor Ricardo
220.	Troche Morel German
221.	Valdez Cantero Miguel Angel
222.	Valdez Diego Walter
223.	Vera Barreto Nery Alcides o Pedro Daniel Vera
224.	Vera Garay César Luis
225.	Vergara López Edgar Diosnel
226.	Vergara Samaniego Edgar David
227.	Vergara Villalba Juan Manuel
228.	Villagra Portillo Víctor Vidal o Aníbal Cayetano
229.	Villalba Franco Cristian Ariel
230.	Villasanti Estigarribia Anastacio
231.	Villasanti Estigarribia Fernando
232.	Yorki Caballero Fernando David
233.	Zalazar César Daniel
234.	Zárate Garay Cristhian Marcelo
235.	Zárate Roque Daniel
236.	Zarza Luján Eladio
237.	Zayas Ayala Walberto o Hugo Sayas
238.	Zorrillas Molas Edgar Cristino
239.	Zorrillas Molas Rubén