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CASE 12.322

MERITS

ANTONIO GONZÁLEZ MÉNDEZ
MEXICO

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I. INTRODUCTION

1. On August 10, 2000, the Inter-American Commission on Human Rights (hereinafter “the Inter-American Commission,” “the Commission” or “the IACHR”) received a petition lodged by the Centro de Derechos Humanos Fray Bartolomé de las Casas A.C. (hereinafter “the petitioner”),¹ alleging international responsibility of the United Mexican States (hereinafter “the Mexican State,” “the State” or “Mexico”) for the presumed forced disappearance of Antonio González Méndez and the subsequent failure to investigate the case to his detriment and to the detriment of his wife Sonia López Juárez and their four children, Ana González López, Magdalena González López, Gerardo González López and Elma Talía González López (hereinafter “the alleged victims”).

2. The Commission approved Report on Admissibility No. 75/07 on October 15, 2007.² On October 24, 2007, the Commission served notice of this report to the parties, who were granted the time to submit their additional observations on the merits, as provided by the Rules of Procedure. Both parties submitted observations on the merits. Both the petitioners and the State expressed in 2007 their willingness to undertake the friendly settlement process though, in the end, no agreement was reached and, therefore, the IACHR decided to carry on with the processing of the case. All information received from each party was duly forwarded to the opposing party.

II. ALLEGATIONS OF THE PARTIES

A. Petitioner

3. The petitioner denounced the forced disappearance of Antonio González Méndez, which allegedly took place on January 18, 1999 and was carried out by one or several members of the paramilitary group “Paz y Justicia” or “Desarrollo Paz y Justicia” (hereinafter “Paz y Justicia”), which operated in northern Chiapas state, Mexico, with the tolerance and acquiescence of the Mexican State.

4. According to the allegation, this disappearance was not an isolated incident, but instead was part of a context of actions carried out by armed paramilitary groups operating in Chiapas since 1995. It claims that paramilitary activity in Chiapas ensued as a consequence of the “1994 Chiapas Campaign Plan” (Plan de Campaña Chiapas 1994), which was designed by the Secretariat of National Defense (SEDENA), in an attempt “to secretly organize certain sectors of civil society” in order to “break the relationship of support that existed between the population and law-breakers.” The petitioner contends that this plan was put into effect after the uprising of the Zapatista National Liberation Army (EZLN) against the State and the Mexican Army in January 1994 and the subsequent increase in the opposition to the government of the Institutional Revolutionary Party (PRI), whose control over the municipalities of Chiapas was under threat. It argues that, in this context, the State facilitated the creation of illegal paramilitary groups, such as Paz y Justicia, and enabled them to operate with impunity in the region where the victim disappeared, thus posing a direct and certain risk to the local population.

5. It claims that Antonio González Méndez belonged to the Ch’ol indigenous people, was a native of the community of El Calvario, municipality of Sabanilla, Chiapas, was married to Sonia López Juárez and had four children. It asserts that he was a member of the civilian grassroots support of the EZLN and was a member of the Democratic Revolutionary Party (PRD) and, at the time of the incidents, he was in charge of the “Arroyo Frío” cooperative store, which belonged to El Calvario community, whose members were considered EZLN sympathizers. According to the petitioner, around twelve midnight on January 18, 1999, Antonio González left his residence with Juan Regino López Leoporto heading in the direction of the Sabanilla river, where Mr. López would sell the alleged victim a gun and ammunition. It further notes that prior to leaving, Antonio told his wife

¹ In a letter of October 12, 2001, the petitioner advised that the Center for Justice and International Law (CEJIL) was joining the proceedings as co-petitioner. However, in a communication of November 15, 2016, CEJIL gave notice that it would not be continuing to provide the legal representation of the victims.

² IACHR. Report No. 75/07. Case No. 12.322. Antonio González Méndez. Mexico. October 15, 2007. The petition was declared admissible with respect to Articles 3, 4, 5, 7, 8 and 25 of the American Convention, in connection with the obligations set forth in Articles 1.1 and 2 of the same instrument. The IACHR also found the petition inadmissible with respect to Article 17 of the Convention.

that he would be back home at around 1:00 AM and he asked her to stay awake to unlock the door for him. His whereabouts have been unknown since that time.

6. The petitioner alleges that Juan López was a member of Paz y Justicia, one of the major active paramilitary groups in Chiapas since 1995 and to which the commission of many crimes against individuals and communities that sympathized with the EZLN, especially those claiming indigenous autonomy and defending ownership to the land they occupied, was attributed. It contends that the acquiescence, tolerance and complicity of the Mexican State with Paz y Justicia is evident in the logistical support, military training, joint actions, weapons transportation facilities, opponent detentions and even direct financial aid provided to group; in addition to the failure to take any measures to prevent human rights violations and punish those responsible, even though the State was aware of them.

7. It asserts that on January 20, 1999, Sonia López reported her husband's disappearance to the Municipal Judge of Sabanilla, and accused Juan López of being responsible for it. This court conducted the initial inquiry and then referred the case to the Public Prosecutor's Office of Yajalón, Chiapas, which opened a pretrial investigation, which concluded it in 2007 without any concrete results. The petitioner further claims that a few days after the pretrial investigation was opened and it was determined that Juan Lopez was 17 years old, he was released to the custody of the Juvenile Offender Council of the state of Chiapas, and another proceeding was instituted against him as the person allegedly responsible for the illegal deprivation of liberty of Antonio González. It contends that on March 26, 1999, Juan López was released to his family on bond and on March 10, 2000, he was finally acquitted.

8. The petitioner argues that the State did not conduct a serious and effective investigation to determine the truth of what happened, the whereabouts of Antonio González and to punish those responsible. It contended that even though the case is complex, the duty to conduct an investigation within a reasonable time was not fulfilled. This unwarranted delay, it alleges, stemmed from the lax attitude of State authorities, who, in the context of the criminal investigation, did nothing but send letters to, what was known then as, the Judicial Police of the State to instruct it to investigate case. It claims that even though Juan López was the last person to see Antonio González alive, that line of investigation was not pursued. It further argues that the investigation did not take into account the pervasive context of violence, the systematic pattern of human rights violations or the fact that the missing person was an EZLN sympathizer.

9. As for the investigation conducted by the Juvenile Offender Council, the petitioner claims that it was not exhaustive. On the contrary, it argues that state authorities merely took a few investigative steps, without considering material lines of investigation to determine the truth of what happened. It further contends that the evidence was not properly assessed when Juan López was released from custody solely on the grounds that Antonio González decided to voluntarily leave his residence with him. Lastly, it claims that the *amparo* proceeding for constitutional relief provided for in Mexican law at the time of the incidents was not effective in cases of forced disappearance, inasmuch as the claim had to be ratified by the offended party and, if it were not, the *amparo* claim would be considered to have not been filed.

10. Based on the foregoing, the petitioner argues that the forced disappearance can be attributed to the Mexican State because it breached its obligation to ensure the violated rights by facilitating the creation of illegal groups and allowing them to operate with impunity in the region where the victim disappeared and, in so doing, the authorities directly and indirectly contributed to posing an actual direct risk to the people living in particular areas of Chiapas, where the disappearance of the victim took place, in addition to breaching its duties to prevent, investigate and punish. Therefore, it alleges that Mexico violated the rights set forth in Articles 3, 4, 5, 7, 8 and 25, in connection with Articles 1.1 and 2 of the American Convention on Human Rights (hereinafter "the American Convention" or "the Convention"), Article 1 of the Inter-American Convention on the Forced Disappearance of Persons and Articles 1 and 6 of the Inter-American Convention to Prevent and Punish Torture.

B. State

11. The State argues that the case under review does not involve the crime of forced disappearance under the standards of both domestic law and international human rights law. In particular, the State denies that Juan López deprived Antonio González of his liberty, because he voluntarily went with him. In this regard, it contends that there was a relationship of “friendship” between them, since Juan López would regularly go to the cooperative store where Antonio González worked and Mr. González would allow him to make purchases on credit. Additionally, it contends that during the initial inquiry, no convincing evidence was introduced as to the motive for the alleged crime or the role that Juan López played in the disappearance, both of which are required in order to ascribe criminal liability to someone.

12. The State has also been emphatic in claiming that there is no evidence at all to suggest the involvement of any State agent in the detention or disappearance of Antonio González. As to Juan López’s membership in the Paz y Justicia group, it argues that it is “mere supposition unsupported by evidence to bear out with any certainty its version of the events.” In this regard, it contends that the petitioner has failed to prove any link between Juan López, the Mexican government and an alleged paramilitary organization.

13. Additionally, Mexico flatly rejects that in the state of Chiapas there has existed or exists any type of paramilitary activity as described by the petitioner and denies the alleged pattern of human rights violations in northern Chiapas state. It further rejects the use of the adjective “paramilitary,” inasmuch as it argues that there has not been any link between these organizations and the public security authorities or the Army, noting that: “it has not been proven that any group of this nature has been created in our country by decree of law, or has been hierarchically subordinated to Mexican authorities, or has been trained or supervised thereby.” Finally, it claims that in all cases in which criminal activity of a particular organization has been proven, authorities have investigated *ex officio* and prosecuted those responsible.

14. Moreover, the State flatly rejects that it has supported or tolerated the existence of armed civilian groups, and also rejects having authored the document known as the 1994 Chiapas Campaign Plan, inasmuch as no evidence could link it to state authorities, official seals or information to suggest it had been written by the State, noting that it can only be found through an electronic link of the victims’ own representatives.

15. Additionally, the State contends that there is no “real and precise” nexus between the alleged context of paramilitary activity in Chiapas and the disappearance of Antonio González Méndez, or that political, ideological or labor matters were behind the disappearance. In this regard, it alleges that the investigation corroborated that Antonio González was not a member of the PRD and that neither his wife nor the other witnesses testified that he had been actively involved in the EZLN or any other political group that could have been behind the facts described by the petitioner.

16. Lastly, the State asserts that it has taken every step available to it in order to investigate diligently and effectively the circumstances of his disappearance and punish those responsible. In this regard, it explained that the efforts of the Public Prosecutor’s Office have been ongoing and have been aimed at following all lines of investigation suggested by Sonia López and her representatives, as well as those identified by the prosecutorial authority. Finally, it claimed that many different investigated steps were exhausted in order to determine the whereabouts of Antonio González Méndez and uncover the historical truth of the case.

III. FINDINGS OF FACT

A. General considerations

17. The Commission finds it important to recall that the legal precedents of the Inter-American system have been consistent in holding that the criteria used by its bodies for assessing evidence are less rigid than in domestic legal systems, enabling them “to weigh the evidence freely.”³ In this regard, both the Inter-American

³ IA Court of HR. *Case of Velásquez Rodríguez v. Honduras*. Merits. Judgment of July 29, 1988. Series C No. 4 (“*Velásquez Rodríguez Judgment*”), pars. 127 and 128.

Commission and the Inter-American Court of Human Rights (“the Court” or “the Inter-American Court”) have established that they must “apply a standard of proof which considers the seriousness of the charge and which, notwithstanding what has already been said, is capable of establishing the truth of the allegations in a convincing manner.”⁴ Additionally, the Court has held that it is “legitimate to use circumstantial evidence, indications and presumptions to found a judgment, provided that conclusions consistent with the facts can be inferred from them.”⁵

18. The Commission also emphasizes that in cases involving allegations of the forced disappearance of persons, it has been the practice of the bodies of the Inter-American system to give special consideration to the nature of this violation, which is intended to erase any physical trace of the crime and which is generally followed by a series of acts and omissions on the part of State officers seeking to cover up the crime by means of various ploys. First, they deny the deprivation of liberty. Next, they resort to disinformation, or the dissemination of false information, regarding the victim’s whereabouts or fate. Finally they conduct ineffective, lax investigations that, far from establishing the truth, perpetuate the ignorance of the victim’s fate.⁶

19. In the same vein, the Court has held that in cases involving forced disappearance, circumstantial or presumptive evidence is especially important because “this type of repression is characterized by an attempt to suppress all information about the kidnapping or the whereabouts and fate of the victim.”⁷ The Court has held that it is possible for the disappearance of a specific individual to be proven “by means of indirect and circumstantial evidence, when taken together with their logical inferences, and in the context of the widespread practice of disappearances.”⁸ However, the use of circumstantial and presumptive evidence in cases involving alleged forced disappearance is not confined to cases in which said disappearance takes place in a particular context,⁹ but is applicable mainly because of the nature of this serious human rights violation.

B. General context of the situation in Chiapas and the actions of paramilitary groups in the area

20. The state of Chiapas is located in southeastern Mexico. In Chiapas, the indigenous population – belonging to 10 different ethnic groups – comprises approximately 30% of a total population of 3 million inhabitants. Until 1994, the state of Chiapas had been mostly governed by the PRI at all political levels. Additionally, its socioeconomic status ranked among the worst in Mexico and it had a long history of agrarian strife.¹⁰ Northern Chiapas, where the municipality of Sabanilla is located, just as many other areas with high indigenous populations, has been marked by land disputes with heavy political, ideological and religious components.¹¹ However, the main conflict arose as a result of the constant tension between large indigenous *ejido* sectors and sectors aligned with the central government and the PRI party structure.¹²

21. Starting in 1994, the context of rural violence surged in northern Chiapas state, as a result of several political and economic changes, which destabilized the relationships of power prevailing in the region for many

⁴ IACHR. Report No. 25/15. Case No. 10.737. Merits. Víctor Manuel Isaza Uribe and Family. Colombia. July 21, 2015, par. 42; IA Court of HR. *Case of González Medina and Family v. Dominican Republic*. Preliminary Objections, Merits, Reparations and Costs. Judgment of February 27, 2012 Series C No. 240 (“*González Medina and Family Judgment*”), par. 132; *Velásquez Rodríguez Judgment*, par. 129.

⁵ IA Court of HR. Judgment *González Medina and family*, par. 134; *Velásquez Rodríguez Judgment*, par. 130.

⁶ IACHR. Report No. 111/09. Case 11.324. Merits. Narciso González Medina. Dominican Republic. November 10, 2009, par. 36.

⁷ IA Court of HR. *González Medina and family Judgment*, par. 134; *Velásquez Rodríguez Judgment*, par. 134; *Velásquez Rodríguez Judgment*, par. 131.

⁸ IA Court of HR. *Case of Blake v. Guatemala*. Judgment of January 24, 1998. Series C No. 36 (“*Blake Judgment*”), par. 49.

⁹ See also, IA Court of HR. *Case of Munárriz Escobar et al v. Peru*. Preliminary Objection, Merits, Reparations and Costs. Judgment of August 20, 2018. Series C No. 355 (“*Munárriz Escobar et al Judgment*”), par. 67.

¹⁰ IACHR. *Report on the Situation of Human Rights in Mexico*. OEA/Ser.L/V/II.100, Doc. 7 rev. 1. September 24, 1998, Chapter VII, The Situation of indigenous Peoples and their Rights, The Situation in the State of Chiapas (Report *Situation of Human Rights in Mexico 1998*), par. 540; Instituto Nacional de Estadística, Geografía e Informática y Gobierno del Estado de Chiapas. Anuario Estadístico del Estado de Chiapas 1995. See also: IACHR. Report No. 51/16. Case 11.564. Admissibility and Merits. Gilberto Jiménez Hernández et al (La Grandeza). Mexico. November 30, 2016 (“*Gilberto Jiménez Hernández et al Merits*”), par. 49.

¹¹ IACHR. *Report on the Situation of Human Rights in Mexico. 1998*, par. 552; UN. Economic and Social Council. *Civil and political rights, in particular the issues of disappearances and summary executions*. Report of Rapporteur, Mrs. Asma Jahangir, on extrajudicial, summary or arbitrary executions and submitted pursuant to Commission on Human Rights Resolution 1999/35. E/CN.4/2000/3/Add.3 (“UN. Asma Jahangir Report”), November 25, 1999, par. 20; HRW. *Implausible Deniability. State Responsibility for Rural Violence in Mexico*. April 1997 (“HRW. Implausible Deniability”), pg. 35.

¹² IACHR. *Report on the Situation of Human Rights in Mexico. 1998*, par. 552.

years.¹³ In response to the PRI's political monopoly, in January 1994, the EZLN carried out an armed uprising for 12 days in order to protest the repression it endured at the hands of law enforcement agents and to demand greater autonomy, economic viability and respect for indigenous communities from the federal government.¹⁴ In the elections of August 1994, the PRD opposition defeated the PRI in many municipalities of the state, especially in rural ones.¹⁵ By that time, the conflict had polarized the ideological and political positions of civil society.¹⁶ Facing the threat to its control over the municipal governments of Chiapas in municipal elections that were to take place the following year, violent actions against PRD members and sympathizers were undertaken by armed groups linked to the State.¹⁷

22. In its 1998 *Report on the Situation of Human Rights in Mexico*, the Commission attested to a growing presence of the armed forces over the past years in predominantly indigenous areas of Chiapas and noticed that it was directly connected to the counterinsurgent struggle.¹⁸ Subsequently, the Commission ascertained that mainly after 1995 there was a "militarization of the northern region and the emergence there of paramilitary groups which have been accused of committing human rights violations."¹⁹ Thus, paramilitary activity – with the protection of the Mexican Army – targeted both the PRD political opposition, and indigenous rights movements, which were usually linked to the EZLN.²⁰

23. As was previously established by the IACHR,²¹ the Secretariat of National Defense (SEDENA) drafted the "1994 Chiapas Campaign Plan" (hereinafter "Chiapas Plan") for the purpose of "destroying and/or disorganizing the political military structure of the EZLN."²² That document set the foundations for paramilitary activity in Chiapas, since it directly ordered utilizing the civilian population to assist in activities of the Mexican Army. In this way, the Military Intelligence Services were supposed to "secretly organize certain sectors of the civilian population; including cattlemen, small and individual business owners who were characterized by a keen sense of patriotism, who would be employed in support of our operations."²³ Subsequently, the Army would take charge of the "training and support of the self-defense forces and other paramilitary organizations" and "when no self-defense forces existed, it was necessary to create them."²⁴ SEDENA's principal objective in the "zone of expansion," located in northern Chiapas, was "the destruction or neutralization of the local guerrillas, militiamen and commandos [by means of the] elimination of urban commandos and the breakdown of or control over organizations of the masses."²⁵ In said plan, the EZLN was regarded explicitly as "enemy forces"²⁶ and it was also noted therein that "the possibility that the EZLN would

¹³ UN. Economic and Social Council. *Human rights and indigenous matters*. Report of the Special Rapporteur on the Situation of Human Rights and Fundamental Liberties of Indigenous People, Rodolfo Stavenhagen. E/CN.2/2004/80/Add.2 ("UN. Rodolfo Stavenhagen Report"), December 23, 2003, par. 38; UN. Asma Jahangir Report, par. 20; UN. Office of the United Nations High Commissioner for Human Rights in Mexico. *Diagnostic Assessment of the Situation of Human Rights in Mexico*. 2003 ("UN. Diagnostic Assessment of the Situation of Human Rights in Mexico"), pg. 156; HRW. *Implausible Deniability*, pg. 32.

¹⁴ IACHR. Merits *Gilberto Jiménez Hernández et al*, par. 50; UN. Asma Jahangir Report, par. 19. See also: HRW. *Implausible Deniability*, pg. 3; Annex 04. Centro de Derechos Humanos "Fray Bartolomé de las Casas". *Los Grupos Paramilitares en Chiapas* [Paramilitary Groups in Chiapas]. Mexico, January 10, 1999, pg. 3. Annex 1. Petitioner's submission, January 15, 2008.

¹⁵ Federal Electoral Institute. 1994 federal election statistics: compendium of results. Mexico D.F., 1995, pgs. 175-184; HRW. *Implausible Deniability*, pg. 34;

¹⁶ UN. Rodolfo Stavenhagen Report, par. 38; UN. *Diagnostic Assessment of Situation of Human Rights in Mexico*, pg. 155.

¹⁷ HRW. *Implausible Deniability*, pgs. 34 and 35.

¹⁸ IACHR. *Report on the Situation of Human Rights in Mexico. 1998*, par. 526. See also: IACHR. *Gilberto Jiménez Hernández et al Merits*, par. 51.

¹⁹ IACHR. *Report on the Situation of Human Rights in Mexico. 1998*, par. 544.

²⁰ IACHR. *Report on the Situation of Human Rights in Mexico. 1998*, par. 555; UN. Asma Jahangir Report, par. 35.

²¹ IACHR: IACHR. *Gilberto Jiménez Hernández et al Merits*, par. 52.

²² Annex 05. SEDENA. Plan Campaña Chiapas 1994. Tuxtla Gutiérrez, Chiapas. VII Región Militar, October 1994 ("SEDENA. 1994 Chiapas Campaign Plan"), item I.A.c. Annex 6. Petitioner's submission, January 15, 2008. See also: Revista Proceso. Los documentos sobre el Plan de Campaña Chiapas 94 deben estar en los archivos de la Sedena y de la VII Región Militar [Documents on '94 Chiapas Campaign Plan must be in the files of SEDENA and of VII Military Region': General Garfias. Mexico, January 10, 1998. Available at: <https://www.proceso.com.mx/177235/los-documentos-sobre-el-plan-de-campana-chiapas-94-deben-estar-en-los-archivos-de-la-sedena-y-de-la-vii-region-militar-el-general-garfias>; Marín, Carlos. Censuring the media, controlling organization of the masses, secretly coopting civilian sectors... Army's Plan in Chiapas, since 1994: create paramilitary gangs, displace the population, destroy EZLN grassroots support... In: Revista Proceso, No. 1105, January 4, 1998. Available at: <http://www.cuestiones.ws/revista/n10/ago02-mex-cm.htm>.

²³ Annex 05. SEDENA. Plan Campaña Chiapas 1994, item I.A.r. Annex 6. Petitioner's submission, January 15, 2008.

²⁴ Annex 05. SEDENA. Plan Campaña Chiapas 1994, item III.C.a.1.iii.(H). Annex 6. Petitioner's submission, January 15, 2008.

²⁵ Annex 05. SEDENA. Plan Campaña Chiapas 1994, item I.A.l. Annex 6. Petitioner's submission, January 15, 2008.

²⁶ Annex 05. SEDENA. Plan Campaña Chiapas 1994, item I.B. Annex 6. Petitioner's submission, January 15, 2008.

be supported in the political structures of the Democratic Revolutionary Party should not be ruled out,"²⁷ and consequently everyone who would be perceived as members or sympathizers of the EZLN or the PRD also was at risk.²⁸

24. The Commission has also seen telegrams sent in May 1999 by the Office of the United States Military Attaché in Mexico to the United States Defense Intelligence Agency. These documents reveal the presence of paramilitary groups in the indigenous communities of the state of Chiapas and the Army's "supervision" of them. In one of the documents, it is noted: "in mid 1994, the Mexican Army received presidential approval to install military teams in charge of promoting armed groups in the conflict areas in Chiapas. The idea was to assist local indigenous personnel in the resistance to the Zapatista National Liberation Army (EZLN). Additionally, during the massacres of December 1997, military intelligence officers were involved in supervising armed groups in the mountains of Los Altos, in Chiapas." These documents also describe the existence of "intelligence" operations in the indigenous areas to identify EZLN sympathizers.²⁹

25. According to the accounts of different authors,³⁰ paramilitary practice in Chiapas was founded on the Mexican military doctrine in force at the time, which sought to control the civilian population for it to be used in "counter guerrilla" operations. Evidence of the direct relationship between the military and paramilitary forces is the *Manual de Guerra Irregular*, [Unconventional War Manual], which was published by SEDENA and consisted of the American "National Security Doctrine" tailored to the Mexican reality. The issuing of this document is attributed to General Mario Renán Castillo Fernández,³¹ who would take on the command of the VII Military Region and would lead the paramilitary surge in Chiapas. Said manual asserts that the State, during its military operations, should also make use of "militarized civilian personnel" as part of the struggle against "the enemy and traitors to the nation." The role of the Army in the use of the civilian population in military activities is described as follows: "the commander of a theater of operations should employ all organized troops and even the civilian population to locate, harass and destroy opposing forces."

26. In implementing the Chiapas Plan, paramilitary groups – linked to the structures of local and state power – were responsible for extrajudicial executions, forced disappearances, attacks on personal integrity and forced displacements.³² Additionally, both United Nations agencies and international organizations, reported on the impunity existing for human rights violations committed by those groups.³³ One of the paramilitary

²⁷ Annex 05. SEDENA. Plan Campaña Chiapas 1994, items I.B.3. and I.E.a. Annex 6. Petitioner's submission, January 15, 2008.

²⁸ IACHR. *Report on the Situation of Human Rights in Mexico. 1998*, par. 557; HRW. *Implausible Deniability*, pgs. 14, 15, 35, 43, 44 and 89; Sandoval Palacios, Juan Manuel. *Political military strategies of the Mexican State and of the EZLN: National security versus national sovereignty*, in Kanoussi, Dora, *El zapatismo y la política* [Zapatism and politics]. Plaza and Valdés Publishers and Gramsci International Society, 1998, pg. 21; Galindo de Pablo, Adrián. *El paramilitarismo en Chiapas. Respuesta del poder contra la sociedad organizada* [Paramilitarism in Chiapas. Response of power against organized society], in *Política y Cultura*, autumn 2015, no. 44, pgs. 194 and 197; López y Rivas, Gilberto; Sierra Guzmán, Jorge Luis; Enríquez del Valle, Alberto. *Las Fuerzas Armadas Mexicanas a fin del milenio. Los militares en la coyuntura actual* [The Mexican Armed Forces at the end of the millennium. The military in the current climate]. PRD Parliamentary Group, Chamber of Deputies / LVII Legislature. Mexico, May 1999, pg. 33; UN. Economic and Social Council. Issue of the human rights of all persons subjected to any form of detention or imprisonment, and in particular torture and other cruel, inhuman or degrading treatment or punishment. Report of the Special Rapporteur, Mr. Nigel S. Rodley, submitted pursuant to Commission on Human Rights Resolution 1997/38. E/CN.4/1998/38/Add.2. January 14, 1998 ("UN. Nigel S. Rodley Report"), pg. 28.

²⁹ Annex 06. United States of American Department of State. Telegrams of May 1999 between the Office of the United States Defense Attaché in Mexico and the United States Defense Intelligence Agency (Washington D.C.). May 1999. Annex. Petitioner's submission, June 14, 2010.

³⁰ Sandoval Palacios, Juan Manuel. *Political military strategies of the Mexican State and of the EZLN: National security versus national sovereignty*, in Kanoussi, Dora, *El zapatismo y la política* [Zapatism and politics]. Plaza and Valdés Publishers and Gramsci International Society, 1998, pg. 109; Galindo de Pablo, Adrián. *El paramilitarismo en Chiapas. Respuesta del poder contra la sociedad organizada*, [Paramilitarism in Chiapas. Response of power against organized society], in *Política y Cultura*, autumn 2015, no. 44, pgs. 189-213.

³¹ López y Rivas, Gilberto; Sierra Guzmán, Jorge Luis; Enríquez del Valle, Alberto. *Las Fuerzas Armadas Mexicanas a fin del milenio. Los militares en la coyuntura actual*. [The Mexican Armed Forces at the end of the millennium. The military in the current climate]. PRD Parliamentary Group, Chamber of Deputies / LVII Legislature. Mexico, May 1999, pg. 39; Sierra Guzmán, Jorge Luis. *El Enemigo Interno: Contrainsurgencia y Fuerzas Armadas en México* [The internal enemy: counterinsurgency and Armed Forces in Mexico]. Mexico: Centro de Estudios Estratégicos de América del Norte, 2003, pg. 171.

³² IACHR. *Report on the Situation of Human Rights in Mexico 1998*, par. 544; UN. *Diagnosis of the Human Rights Situation in Mexico*, pgs. 155 – 157; ONU. Rodolfo Stavenhagen Report, par. 42; UN. Nigel S. Rodley Report, par. 10; Amnesty International. Mexico. *Las desapariciones: un agujero negro en la protección de los derechos humanos* [Disappearances: a black hole in human rights protection]. May 7, 1998 ("AI. Disappearances"), pgs. 20-21.

³³ UN. *Diagnosis of the Human Rights Situation in Mexico*, pg. 159; ONU. Rodolfo Stavenhagen Report, par. 60; UN. Nigel S. Rodley Report, pars. 23 and 37; AI. *Disappearances*; HRW. *Implausible Deniability*, pgs. 89-95; Amnesty Internacional. Mexico: *under the shadow of impunity*. March 9, 1999, pgs. 15-17.

groups, which emerged in this context, was Paz y Justicia, specifically in the Ch'ol region of northern Chiapas, where the municipality of Sabanilla is located. As was noted above by the Commission, this organization was “the main one accused as the instrument of the attacks on leaders and organizations that call for indigenous autonomy and defend their ownership of the land they occupy.”³⁴ The perpetration of executions, disappearances, blocking of several communities and roads, burning of houses and forced displacement of many families and whole communities has been attributed to the group.³⁵ The human rights violations committed by Paz y Justicia were mainly targeted at members of the PRD and pro-indigenous rights movements.³⁶

27. Several civil society organizations have reported the many pieces of evidence linking Paz y Justicia to the local, state and federal authorities.³⁷ This includes military training, provision of weapons, vehicles and uniforms, facilitating the transportation of weapons through military checkpoints, detention of opponents and failure to investigate criminal activities and punish those responsible. After asserting that there existed a “pattern of complicity” of the state in the violence in Chiapas, HRW wrote the following:

[...] the government has shown through action and inaction that it is more than just permissive of the violent actions of Peace and Justice. Human Rights Watch/Americas must conclude that authorities actively acquiesce to the abuses committed by armed civilians [...]. Authorities frequently know about abuses but fail to act to prevent or punish them. Further, when officials arbitrarily detain opponents of Peace and Justice or fail to investigate denunciations of crimes committed by the group, they lend the perpetrators of rural violence the legitimacy of government institutions.³⁸

28. The petitioner, who allegedly had access to informants within Paz y Justicia, claims that both town halls (including Sabanilla's), and the governor of Chiapas, the Attorney General and the Mexican Army actively collaborated with said organization in its paramilitary activity.³⁹

29. The Commission itself recognised the paramilitary nature of Paz y Justicia in its 1998 *Report on the Situation of Human Rights in Mexico*.⁴⁰ Similarly, while no reference is made to any group in particular, the special UN proceedings were also emphatic in asserting the existence of paramilitary groups in the indigenous-inhabited areas of Chiapas, after ascertaining that they were “linked to structures of local and state power and that they intervened violently in political and social conflicts.”⁴¹

30. In 1997, Paz y Justicia was formally incorporated as a non-profit organization (*asociación civil*) under the name of “Desarrollo, Paz y Justicia” [‘Development, Peace and Justice’],⁴² for the purpose of securing government funding. On July 4, 1997, an agreement was entered into with the government of the state of Chiapas granting it 4,600,000 Mexican pesos. At the formal agreement signing ceremony, Mario Renán Castillo Fernández, Commander of the VII Military Region at that time, attended and signed as a witness of honor.⁴³ The Commission notes that, by that time, the organization's criminal activities were already of public knowledge.⁴⁴

³⁴ IACHR. *Report on the Situation of Human Rights in Mexico 1998*, par. 556.

³⁵ IACHR. *Report on the Situation of Human Rights in Mexico 1998*, pars. 557-560; HRW. *Implausible Deniability*, pgs. 35, 43-44.

³⁶ IACHR. *Report on the Situation of Human Rights in Mexico 1998*, pars. 557-560; HRW. *Implausible Deniability*, pgs. 35, 43-44.

³⁷ HRW. *Implausible Deniability*, pg. 21; AI. *Disappearances*, pg. 20.

³⁸ HRW. *Implausible Deniability*, pg. 46.

³⁹ Centro de Derechos Humanos “Fray Bartolomé de las Casas”. *La paramilitarización en la Zona Norte de Chiapas* [‘The paramilitarization of northern Chiapas’]. *El desarrollo de Paz y Justicia, de acuerdo a Paz y Justicia* [‘The development of Paz y Justicia, according to Paz y Justicia’]. Chiapas, July 16, 2004, pgs. 10-13.

⁴⁰ CHR. *Report on the Situation of Human Rights in Mexico 1998*, par. 556.

⁴¹ UN. Rodolfo Stavenhagen Report, par. 42. See also: UN. Asma Jahangir Report, par. 35; UN. *Diagnosis of the Human Rights Situation in Mexico*, pg. 156.

⁴² Annex 07. Articles of Incorporation of Desarrollo, Paz y Justicia AC. Instrument 3976, volume number 99, executed in the city of Ocozacoautla de Espinoza, district of Tuxtla, Chiapas, before attorney-at-law Octavio Esponda López, Chief Notary Public of Office number 77, July 18, 1997 (‘Articles of Incorporation of Desarrollo, Paz y Justicia’). Annex 9. Petitioner's Submission, January 15, 2008.

⁴³ Annex 08. Production Development Agreement between the Government of the state of Chiapas and Desarrollo, Paz y Justicia A.C., entered into on July 4, 1997. Annex 10. Petitioner's Submission, January 15, 2008.

⁴⁴ Annex 09. Press clippings about Paz y Justicia from 1995 to 2004. Annex 11. Petitioner's Submission, January 15, 2008.

31. Furthermore, the Commission notes that the senior leadership identified as being from Paz y Justicia⁴⁵ are one and the same as the designated authorities in the articles of incorporation of the non-profit organization “Desarrollo, Paz y Justicia.”⁴⁶ Marcos Albino Torres López (former military) was identified as Commander-in-Chief of Paz y Justicia in the Municipality of Tila, while he was the chairman of the board of directors of the organization. Sabelino Torres Martínez (former military) was identified as the commander in Miguel Alemán, and also appears in the articles of incorporation as the chairman of the surveillance council. Lastly, Raymundo Sánchez Trujillo was identified as weapons procurement officer and then was appointed as a voting member of the executive board of the non-profit organization.

32. Additionally, several sources report that areas located within and around the *Selva Lacandona* jungle, including the municipalities of Sabanilla and Tila, have a strong Zapatista tradition.⁴⁷ In fact, the founding of the EZLN is attributed to a small group of mestizos and indigenous people who, on November 17, 1983 in a mountainous region located precisely between Plan de Guadalupe and El Calvario, established their first base camp.⁴⁸ Furthermore, the “V Caracol de Roberto Barrios” is one of the foundational regions of the Zapatista autonomous communities, which encompasses many of the municipalities of northern Chiapas with a majority Ch’ol population.⁴⁹

33. Based on the foregoing and the evidence before us taken as a whole, the Commission finds to be an established fact that, at the time of the alleged incidents, there was a context of widespread violence in northern Chiapas state, where paramilitary groups, sponsored by the State – including the group Paz y Justicia – acted with the tolerance and acquiescence thereof in a variety of acts of violence such as executions and disappearances targeting the indigenous population that sympathized with the EZLN and political opponents, of whom there was a significant presence among the Ch’ol indigenous population of El Calvario and Sabanilla.

C. Facts of the case

34. Antonio González was 32 years old, a member of the Ch’ol indigenous people and was born in the community of El Calvario, municipality of Sabanilla, Chiapas. He was married to Sonia López and had four children. He worked as the manager of the “Arroyo Frío” cooperative store, of which he was a partner,⁵⁰ cooperative that precisely “belonged to sympathizers of the [...] EZLN.”⁵¹ Antonio lived with his family in the residence that was located in the store itself in Sabanilla.⁵²

35. According to his wife’s statement, Antonio was a member of the EZLN civilian grassroots support and an active member of the PRD.⁵³ The person allegedly responsible for his disappearance, Juan López, also identified Antonio González as a Zapatista.⁵⁴ Additionally, the EZLN Good Governance Junta (Junta de Buen

⁴⁵ Centro de Derechos Humanos “Fray Bartolomé de las Casas”. La paramilitarización en la Zona Norte de Chiapas [‘The paramilitarization of northern Chiapas’]. El desarrollo de Paz y Justicia, de acuerdo a Paz y Justicia [‘The development of Paz y Justicia, according to Paz y Justicia’]. Chiapas, July 16, 2004, pg. 33.

⁴⁶ Annex 07. Articles of Incorporation Desarrollo, Paz y Justicia. Annex 9. Petitioner’s Submission, January 15, 2008.

⁴⁷ Hernández Millán, Abelardo. Orígenes y antecedentes del EZLN [‘Origins and background of EZLN’]. Espacios Públicos, 2007.

⁴⁸ Muñoz Ramírez, Gloria. EZLN: 20 y 10, el fuego y la palabra. Mexico: La Jornada Ediciones, 2003, pg. 27; Proceso. Cumple el EZLN 27 años de su fundación en Chiapas [‘27 years since the founding of the EZLN in Chiapas’]. November 17, 2010. Compilation from: <https://www.proceso.com.mx/98875/cumple-el-ezln-27-anos-de-su-fundacion-en-chiapas>

⁴⁹ Centro de Documentación sobre Zapatismo [‘Zapatista Movement Documentation Center’] (CEDOZ). Listado de Caracoles, Juntas de Buen Gobierno y Municipios Autónomos Zapatistas [‘List of Caracoles, Good Governance Juntas and Zapatista Autonomous Municipalities’]. 2003. Available at: <http://www.cedo.org/site/content.php?doc=481&cat=82>

⁵⁰ Annex 01. Case file of Preliminary Investigation AL41/SJI/030/99, pages 7-8th. Statement of Sonia López dated January 23, 1999. Annex 15. Petitioner’s Submission, January 15, 2008.

⁵¹ Annex 01. Case file of Preliminary Investigation AL41/SJI/030/99, page 17. Record dated February 4, 1999. Annex 15. Petitioner’s Submission of January 15, 2008.

⁵² Annex 01. Case file of Preliminary Investigation AL41/SJI/030/99, pages 7-8. Statement of Sonia López dated January 23, 1999. Annex 15. Petitioner’s Submission of January 15, 2008.

⁵³ Annex 01. Case file of Preliminary Investigation AL41/SJI/030/99, pages 12-13. Statement of Sonia López dated January 23, 1999. Annex 15. Petitioner’s Submission of January 15, 2008.

⁵⁴ Annex 03. Case File 072/99 of the Juvenile Offender Council of the State of Chiapas, page 70. Annex 16. Petitioner’s Submission of January 15, 2008; and Annex 01. Case file of Preliminary Investigation AL41/SJI/030/99, page 16. Annex 15. Petitioner’s Submission of January 15, 2008.

Gobierno) confirmed Antonio González's membership in the civilian grassroots support of the EZLN and attributed his disappearance to "members of the Desarrollo, Paz y Justicia paramilitary group."⁵⁵

36. Additionally, Juan López was identified by the victim's wife and by the Centro de Derechos Humanos Fray Bartolomé de las Casas of belonging to Paz y Justicia,⁵⁶ even though he denied it.⁵⁷ However, in a statement to the Public Prosecutor's Office, he said that his family members were P.R.I. members.⁵⁸ The Commission notes that in the file of the instant case two communications appear from the non-profit organization "Desarrollo, Paz y Justicia," noting that Juan López does not belong to the organization.⁵⁹ In this regard, the Commission considers there to be sufficient evidence that said organization was formally incorporated in order to make the paramilitary structure Paz y Justicia appear legal and be able to secure financing from the State of Chiapas and, therefore, Juan López's link to the paramilitary group cannot be ruled out based on such communications.

37. On January 18, 1999, at approximately twelve midnight, Antonio González left his residence in Sabanilla, Chiapas, heading in the direction of the Sabanilla river, which was in the vicinity of his residence, together with Juan López, who would sell him a gun that he claimed had been stashed in that location.⁶⁰ Before leaving, Antonio González told his wife Sonia López that he would be back at around 1:00 AM and he asked her to wait up to unlock the door for him.⁶¹ Nonetheless, Antonio González never came back home.⁶² Juan López claimed that after completing the sale next to the river, Antonio González headed on foot toward the El Calvario sector where he would hide the gun, heading toward Santa Catarina, and that he [Juan] headed to Pasijá de Morelos,⁶³ arriving there at about 3:00 AM.⁶⁴

38. After unsuccessfully searching for her husband, on January 20, 1999, Sonia López reported his disappearance to the Municipal Judge of Sabanilla, Chiapas.⁶⁵ As from that moment, an investigation was opened by that Municipal Court, which was then transferred on January 22 of the same year to the Office of the Public Prosecutor of Yajalón, Chiapas, where a pretrial investigation was opened against Juan López for potentially committing criminal acts.⁶⁶ After it was determined that Juan López was 17 years of age, his case was referred to the General Council of Juveniles on February 6, 1999, at which time an administrative proceeding was instituted against him for potential criminal liability for the illegal deprivation of liberty of Antonio González.⁶⁷ Additionally, on March 8, 1999, a petition for constitutional relief via indirect *amparo* was filed before the District Court Judge of the Judicial Twentieth Circuit of Tuxtla Gutiérrez, Chiapas, on behalf of Antonio González, as a disappeared person since January 18 of the same year.⁶⁸

D. Domestic Proceedings

i. Pretrial Investigation

⁵⁵ Annex 10. Letter to the IACHR from the Junta de Buen Gobierno "Nueva Semilla que va a Producir" of the Caracol V Roberto Barrios "que Habla para Todos", Northern Chiapas, August 5, 2013. Annex 3. Petitioner's Submission, August 30, 2013.

⁵⁶ Annex 03. Case File 072/99 of the Juvenile Offender Council of the State of Chiapas, pages 69-71. Annex 16. Petitioner's Submission of January 15, 2008.

⁵⁷ Annex 03. Case File 072/99 of the Juvenile Offenders Council of the State of Chiapas, page 70. Annex 16. Petitioner's Submission of January 15, 2008; Annex 01. Case file of Preliminary Investigation AL41/SJI/030/99, pages 28-29. Annex 15. Petitioner's Submission of January 15, 2008.

⁵⁸ Annex 01. Case file of Preliminary Investigation AL41/SJI/030/99, page 42. Annex 15. Petitioner's Submission of January 15, 2008.

⁵⁹ Annex 11. Letters dated May 7, 2007 and October 3, 2008 from the non-profit corporation "Desarrollo, Paz y Justicia". Annex 6. State's Submission, June 9, 2014.

⁶⁰ See, inter alia; Annex 01. Case file of Preliminary Investigation AL41/SJI/030/99, pages 2, 4, 9, 11, 12. Annex 15. Petitioner's Submission of January 15, 2008.

⁶¹ See, inter alia; Annex 01. Case file of Preliminary Investigation AL41/SJI/030/99, pages 8 and 12. Annex 15. Petitioner's Submission of January 15, 2008.

⁶² See, inter alia; Annex 01. Case file of Preliminary Investigation AL41/SJI/030/99, pages 3, 8, 9, 9th, 12th, 13. Annex 15. Petitioner's Submission of January 15, 2008.

⁶³ Annex 01. Case file of Preliminary Investigation AL41/SJI/030/99, pages 11, 16. Annex 15. Petitioner's Submission of January 15, 2008.

⁶⁴ Annex 03. Case File 072/99 of the Juvenile Offender Council of the State of Chiapas, page 70th-71. Annex 16. Petitioner's Submission of January 15, 2008.

⁶⁵ Annex 01. Case file of Preliminary Investigation AL41/SJI/030/99, page 2. Annex 15. Petitioner's Submission, January 15, 2008.

⁶⁶ Annex 01. Case file of Preliminary Investigation AL41/SJI/030/99, pages 1. Annex 15. Petitioner's Submission, January 15, 2008.

⁶⁷ Annex 03. Case File 072/99 of the Juvenile Offender Council of the State of Chiapas, page 1. Annex 16. Petitioner's Submission, January 15, 2008.

⁶⁸ Annex 02. Relevant Documents from Amparo Proceeding 238/99, pg. 1. Annex 16. Petitioner's Submission, January 15, 2008.

39. The parties' submissions included an attached copy of the Case File of the Pretrial Investigation, which was opened based on the respective report filed by Sonia López Juárez, wife of the missing victim, on January 20, 1999 with the Municipal Court of Sabanilla, Chiapas and that continued to be processed by the Office of the Public Prosecutor. Records of the following investigative steps and evidentiary exhibits appear in said case file:

- i. On January 22, 1999, Octavio Cruz Pérez, Municipal Legal Counsel of the People of Sabanilla, Chiapas, appears before agent in charge of the General Directorate of Pretrial Investigations of the Office of the Public Prosecutor, of the city of Yajalón, Chiapas, bearing records of investigative steps performed and placing at the disposal of the competent authority Juan Regino López Leoporto, who is charged as the suspect responsible for the disappearance of Antonio González Méndez;⁶⁹
- ii. Testimonial statements about the disappearance of Antonio González Méndez, given to the Municipal Legal Counsel of Sabanilla on January 20, 1999 by Carmelino López Pérez and Rafael Cruz López,⁷⁰ and confirmed under oath by them before the Assistant Public Prosecutor on January 23, 1999;⁷¹
- iii. Statements of Manuel Cruz Gómez and Federico Pérez Torres, municipal police officers, who performed the arrest on a public thoroughfare on Wednesday January 20, 1999, submitted on January 23, 1999 to the Assistant Prosecuting Attorney.⁷²
- iv. On January 23, 1999, the Public Prosecutor's Office attested that the suspect did not present any visible sign of injury.⁷³ On January 24, 1999, after examining the records, because the requirements of Article 16 of the Constitution were not met, the Agent of the Public Prosecutor's district Office ordered Juan Regino López Leoporto's custody order to be lifted, and he was released.⁷⁴
- v. On January 25, 1999, the Public Prosecutor's Office sent a letter to the Chief of the State Judicial Police Group, Ocesingo station, Chiapas, instructing him to investigate the facts of the complaint and to find Antonio González Méndez.⁷⁵ This instruction was reiterated on March 17, 1999.⁷⁶
- vi. On February 4, 1999, an expert medical report on Juan Regino López Leoporto's physical integrity and clinical age was received, indicating that he represented 17 years of age.⁷⁷ On that same date, and in view of the age of the suspect and that it was surmised that he had committed criminal acts, it was ordered that he should be placed at the disposal of the Juvenile Offender Protection Council.⁷⁸
- vii. On February 4, 1999, the Office of the Public Prosecutor also attested that on February 1 and 3, he travelled to the municipality of Sabanilla, and together with the Commander of the El Paraíso and Moyos Police Station and dozens of public security officers, in the company of the Commanders of Public Security of Yajalón and Sabanilla, agents under their command, Chiapas, carried out a search for the disappeared person throughout the vicinity of the river and locations in close proximity to the municipal cemetery, but they were unable to find him. Additionally, they investigated the cooperative store where he worked and concluded, based on information provided by the Commander of Public Security of the Sabanilla police station, that it [the store] belonged to partners who sympathized with the Zapatista National Liberation Army (EZNL).⁷⁹

⁶⁹ Annex 01. Case file of Preliminary Investigation AL41/SJI/030/99, pages 1-6. Annex 15. Petitioner's Submission, January 15, 2008. enero de 2008.

⁷⁰ Annex 01. Case file of Preliminary Investigation AL41/SJI/030/99, page 3. Annex 15. Petitioner's Submission, January 15, 2008.

⁷¹ Annex 01. Case file of Preliminary Investigation AL41/SJI/030/99, pages 8th-9th. Annex 15. Petitioner's Submission, January 15, 2008.

⁷² Annex 01. Case file of Preliminary Investigation AL41/SJI/030/99, pages 9th-10th. Annex 15. Petitioner's Submission, January 15, 2008.

⁷³ Annex 01. Case file of Preliminary Investigation AL41/SJI/030/99, page 11th. Annex 15. Petitioner's Submission, January 15, 2008.

⁷⁴ Annex 01. Case file of Preliminary Investigation AL41/SJI/030/99, pages 11th-12. Annex 15. Petitioner's Submission, January 15, 2008.

⁷⁵ Annex 01. Case file of Preliminary Investigation AL41/SJI/030/99, pages 12-12th. Annex 15. Petitioner's Submission, January 15, 2008.

⁷⁶ Annex 01. Case file of Preliminary Investigation AL41/SJI/030/99, pages 24-24th. Annex 15. Petitioner's Submission, January 15, 2008.

⁷⁷ Annex 01. Case file of Preliminary Investigation AL41/SJI/030/99, page 15th. Annex 15. Petitioner's Submission, January 15, 2008.

⁷⁸ Annex 01. Case file of Preliminary Investigation AL41/SJI/030/99, page 16th. Annex 15. Petitioner's Submission, January 15, 2008.

⁷⁹ Annex 01. Case file of Preliminary Investigation AL41/SJI/030/99, pages 17-17th. Annex 15. Petitioner's Submission, January 15, 2008.

- viii. On March 11, 1999, the Centro de Derechos Humanos Fray Bartolomé de Las Casas sent a letter to the Attorney General of the State of Chiapas, informing him of the disappearance of Antonio González Méndez and stating, among other things, that up until the time of his disappearance, Antonio worked for approximately three months at the “Arroyo Frío” cooperative store, which was part of the El Calvario sector, where he was also born and that he was last seen with Juan Regino López Leoporto, [who is] from the community of Pasijal de Morelos, who is known to be a member of the Paz y Justicia group.⁸⁰
- ix. Between March 23, 1999 and March 9, 2000, several letters and reminders were sent to the Office of the Public Prosecutor of Yajalón, Chiapas, to the Office of the Assistant Attorney General for Indigenous Justice of San Cristóbal de Las Casas, Chiapas, to the Attorney General of the State, to the Judicial Police of every Zone of the State and to the Commanders of Public Security, requesting that the necessary investigations be conducted until all of the facts are fully elucidated.⁸¹ Based on different replies, it appears that searches were conducted and proved unsuccessful.⁸²
- x. In a letter of December 22, 1999, and in a follow-up letter sent on January 10, 2000, the State Human Rights Commission informed the Director General of Human Rights Protection of the Office of the Attorney General of the State that it was entertaining a Complaint investigation opened on the basis of a letter sent to the President of the United Mexican States and the Secretary of Government, requesting the release of Antonio González Méndez, who had been allegedly kidnapped by the “Paz y Justicia” Group and requested a copy of the Pretrial Investigation File.⁸³
- xi. Statement of Niqueas López Leoporto, brother of Juan Regino López Leoporto, dated March 20, 2000, to the Office of the Assistant Attorney General for Indigenous Justice, asserting that the statement made by his brother was not true regarding his brother having handed over the money from the sale of the gun to him.⁸⁴
- xii. On February 6, 2001, the Agent of the Office of the Public Prosecutor of the Office of the Attorney General for Indigenous Justice issues a decision, based on Article 16 of the Constitution, ordering the investigation to be closed without prejudice due to lack of evidence, inasmuch as the information appearing in the case file did not rise to the level of certainty of the charges.⁸⁵
- xiii. On March 14, 2001, the investigation is reopened by an Agent of the Public Prosecutor’s Office (not the same one that had closed the investigation a month earlier) and he orders the Municipal Judge and the Commander of Public Security of Sabanilla, Chiapas, to appear with officials at their command in the community of El Calvario in order to investigate along with the family members and residents the whereabouts of Antonio González Méndez and to summon Sonia López Juarez.⁸⁶
- xiv. On November 6, 2001, a new Agent of the Public Prosecutor’s Office begins to conduct the investigation and instructs the Police Commander of Ocosingo, Chiapas, to take over the investigation and search for the disappeared individual.⁸⁷
- xv. On November 12, 2001, and based on a telephone call, the Office of the Assistant Attorney General for Indigenous Justice of Yajalón, Chiapas, sent a report to the Assistant Director of Pretrial Investigations of the Office of the Attorney General for Indigenous Justice of San Cristóbal de las Casas, Chiapas, summarizing the progress of the investigations and noting, among other things, that in a letter of November 11, 2001, it was requested to summon the wife of the disappeared person to show a photograph of him.⁸⁸

⁸⁰ Annex 01. Case file of Preliminary Investigation AL41/SJI/030/99, pages 28-29. Annex 15. Petitioner’s Submission, January 15, 2008.

⁸¹ Annex 01. Case file of Preliminary Investigation AL41/SJI/030/99, pages 30-46, 59, 66-67, 84. Annex 15. Petitioner’s Submission, January 15, 2008.

⁸² Annex 01. Case file of Preliminary Investigation AL41/SJI/030/99, pages 50-55, 63. Annex 15. Petitioner’s Submission, January 15, 2008.

⁸³ Annex 01. Case file of Preliminary Investigation AL41/SJI/030/99, pages 73, 75. Annex 15. Petitioner’s Submission, January 15, 2008.

⁸⁴ Annex 01. Case file of Preliminary Investigation AL41/SJI/030/99, page 83rd. Annex 15. Petitioner’s Submission, January 15, 2008.

⁸⁵ Annex 01. Case file of Preliminary Investigation AL41/SJI/030/99, pages 93-93rd. Annex 15. Petitioner’s Submission, January 15, 2008.

⁸⁶ Annex 01. Case file of Preliminary Investigation AL41/SJI/030/99, pages 97-98. Annex 15. Petitioner’s Submission, January 15, 2008.

⁸⁷ Annex 01. Case file of Preliminary Investigation AL41/SJI/030/99, page 99th. Annex 15. Petitioner’s Submission, January 15, 2008.

⁸⁸ Annex 01. Case file of Preliminary Investigation AL41/SJI/030/99, pages 101-105. Annex 15. Petitioner’s Submission, January 15, 2008.

- xvi. On December 20, 2001 and August 21, 2002, the summons of Sonia López Juárez was resent, and she appeared on January 26, with two color photographs, which were enlarged and sent on February 6 and April 27, 2002 for dissemination thereof by the Office of the Attorney General of the State.⁸⁹
- xvii. On February 23, 2005, the Office of the Attorney General of the State of Chiapas sent a report to the General Directorate of Human Rights Protection of the Office of the Attorney General of the State, Tuxtla Gutiérrez, Chiapas, summarizing the status of the investigation and noting that it has been unable to obtain information and that the investigation is continuing.⁹⁰
- xviii. On October 24, 2006, a record is made of a new agent of the Public Prosecutor's Office taking charge of the investigation and that the General Directorate for Human Rights and Democracy of the Secretariat of Foreign Affairs had requested a report on the latest investigative steps taken in the case.⁹¹
- xix. On October 31, 2006, the requested report is issued describing the investigative steps taken and noting that evidence was lacking to support a charge of any unlawful act against defendant Juan Regino López Leoporto *"since there is no direct accusation against him that he has been the person who deprived him of his liberty or has deprived him of his life; consequently thus far the necessary investigative steps have been exhausted and it is in order to issue the appropriate decision."*⁹²
- xx. On November 28, 2006, Sonia López Juárez is summoned again, but attempts to locate her were unsuccessful.⁹³
- xxi. On July 11, 2007, a record is made that a new agent of the Public Prosecutor's Office took over the investigation, and submitted a report the next day to the Assistant Director of Pretrial Investigations of the Office of the Attorney General for Indigenous Justice, San Cristóbal de las Casas, Chiapas, without providing anything new.⁹⁴
- xxii. On July 16, 2007, the Attorney of the Office of the Public Prosecutor in charge of Processing Table Number Three Yajalón, attested to several irregularities in the proceedings, drawing the conclusion that *"the letters that were ordered to be sent out according to the decisions appearing as attachments to the case file of the instant investigation, may have not been written and sent or may have been misplaced, since neither the originals or carbon copies thereof appear where the record appears that they were sent, we also do not know the fate of the documents and letters that according to the decisions appearing in the case file were received by the then Agents of the Public Prosecutor's Office respectively, who at one time, were in charge of completing this investigation."*⁹⁵
- xxiii. On August 23 and September 14, 2007, Sonia López Juárez is summoned again, and does not appear, but there is no record of her being served summons to appear.⁹⁶
- xxiv. On October 9, 2007, an order is issued to send a letter to the Chief of the Group of the State Investigation Agency assigned to the Office of the Attorney General for Indigenous Justice, for him to undertake, through the agents under his command, a thorough investigation of the disappeared person, and he reported that they [the investigators] went to the sector of El Calvario, interviewed Sonia López and Octavio Cruz, but did not obtain any important information about the whereabouts of Antonio González Méndez.⁹⁷

⁸⁹ Annex 01. Case file of Preliminary Investigation AL41/SJI/030/99, pages 105-112. Annex 15. Petitioner's Submission, January 15, 2008.

⁹⁰ Annex 01. Case file of Preliminary Investigation AL41/SJI/030/99, pages 113-114. Annex 15. Petitioner's Submission, January 15, 2008.

⁹¹ Annex 01. Case file of Preliminary Investigation AL41/SJI/030/99, pages 115-117. Annex 15. Petitioner's Submission, January 15, 2008.

⁹² Annex 01. Case file of Preliminary Investigation AL41/SJI/030/99, pages 119-120. Annex 15. Petitioner's Submission, January 15, 2008.

⁹³ Annex 01. Case file of Preliminary Investigation AL41/SJI/030/99, pages 121-124. Annex 15. Petitioner's Submission, January 15, 2008.

⁹⁴ Annex 01. Case file of Preliminary Investigation AL41/SJI/030/99, pages 125-130. Annex 15. Petitioner's Submission, January 15, 2008.

⁹⁵ Annex 01. Case file of Preliminary Investigation AL41/SJI/030/99, pages 131-134. Annex 15. Petitioner's Submission, January 15, 2008.

⁹⁶ Annex 01. Case file of Preliminary Investigation AL41/SJI/030/99, pages 135-140. Annex 15. Petitioner's Submission, January 15, 2008.

⁹⁷ Annex 01. Case file of Preliminary Investigation AL41/SJI/030/99, pages 141-147. Annex 15. Petitioner's Submission, January 15, 2008.

xxv. On October 17, 2007, the decision is made to request closing the pre-trial investigation because “the requirements of Article 16 of the Federal Political Constitution have not been met, even though each and every one of the investigative steps, appearing thus far in the case file of the proceedings of the instant investigation have been taken,” a request that was approved on November 24, 2007.⁹⁸

40. In the different statements given in this pre-trial investigation proceeding by **Sonia López Juárez**, she notes that she filed a report with the Municipal Legal Counsel of Sabanilla on January 20, 1999, claiming that her husband had disappeared as of Monday January 18, 1999, at around twelve midnight, when he left his residence located in the cooperative store where he worked, in the company of Juan Regino López Leoporto, who would sell him some “fierros” [literally: ‘pieces of iron’].⁹⁹ On January 23, 1999, she confirmed her statement to the Agent of the Public Prosecutor’s Office, adding that the suspect came to her residence and was with her husband from approximately 18:30 hours of Monday January 18.¹⁰⁰ On February 4, 1999, she added to her statement, among other circumstances, that her husband was a member of the Democratic Revolutionary Party.¹⁰¹

41. The different statements given in the pre-trial investigation proceedings by **Juan Regino López Leoporto**, indicate that, while being interrogated by the Municipal Legal Counsel of Sabanilla on January 22, 1999, he acknowledged that, on January 18 at 12:00 AM, he went to get Antonio González Méndez, because they had a weapon transaction. They tested the weapon on the river bank, completed the transaction, took leave of each other and then each one went his own way, the missing person heading toward the community of Calvario.¹⁰² On January 23, 1999, he testified to the Agent of the Public Prosecutor’s Office contending he was innocent and, partly contradicting his previous testimony, claimed that he had arrived in Antonio González’s house at around 6:00 PM on January 18 and that, at around 23:00 hours, they left together for the river bank, where he had hidden the shotgun that he sold him, about two hundred meters away from the house that was located in the cooperative store. After the transaction, the disappeared person allegedly headed through “Catarina” or “Santa Catarina” toward the “Calvario settlement,” because he would drop off the gun there, as he did not have anywhere to hide it in the store.¹⁰³ On February 4, 1999, before the Agent of the Public Prosecutor’s Office, he speculated that Antonio González Méndez might have been murdered in the Santa Catarina settlement, to where he headed following the purchase of the shotgun, because he was a Zapatista. He also stated that the missing person had disclosed to him that he had two enemies in his own community “El Calvario.”¹⁰⁴ On April 22, 1999, he testified again to the Agent of the Public Prosecutor’s Office, this time saying that he had a tip that the missing person was in the Nueva Esperanza neighborhood, and he additionally stated that he [the defendant] did not belong to the organization Paz y Justicia, but that his family members belonged to the P.R.I.¹⁰⁵

ii. Amparo

42. On March 8, 1999, an indirect amparo proceeding for constitutional relief was brought on behalf of the disappeared person Antonio González Méndez about whom “it is claimed he is deprived of his liberty by authorities of Sabanilla, a situation that could not be determined given the context of violence that is being experienced in the northern zone of the State.” In said amparo petition, it is stated that there are strong rumors that Antonio González Méndez was detained by members of the Public Security Police and the Municipal Police and was transferred to CERESO Pichucalco.¹⁰⁶

43. On March 23, 1999, the representative of the Fray Bartolomé de las Casas Human Rights Center was issued a summons to appear to state the location where the offended party was being detained, and was

⁹⁸ Annex 01. Case file of Preliminary Investigation AL41/SJI/030/99, page 148. Annex 15. Petitioner’s Submission, January 15, 2008.

⁹⁹ Annex 01. Case file of Preliminary Investigation AL41/SJI/030/99, page 2. Annex 15. Petitioner’s Submission, January 15, 2008.

¹⁰⁰ Annex 01. Case file of Preliminary Investigation AL41/SJI/030/99, pages 7th-8th. Annex 15. Petitioner’s Submission, January 15, 2008.

¹⁰¹ Annex 01. Case file of Preliminary Investigation AL41/SJI/030/99, pages 12th-13. Annex 15. Petitioner’s Submission, January 15, 2008.

¹⁰² Annex 01. Case file of Preliminary Investigation AL41/SJI/030/99, page 4. Annex 15. Petitioner’s Submission, January 15, 2008.

¹⁰³ Annex 01. Case file of Preliminary Investigation AL41/SJI/030/99, pages 10th-11th. Annex 15. Petitioner’s Submission, January 15, 2008.

¹⁰⁴ Annex 01. Case file of Preliminary Investigation AL41/SJI/030/99, pages 15th-16. Annex 15. Petitioner’s Submission, January 15, 2008.

¹⁰⁵ Annex 01. Case file of Preliminary Investigation AL41/SJI/030/99, page 42. Annex 15. Petitioner’s Submission, January 15, 2008.

¹⁰⁶ Annex 02. Relevant Documents from Amparo Proceeding 238/99, pgs. 1-6. Annex 18. Petitioner’s Submission, January 15, 2008.

cautioned that, should it not do so, the *amparo* claim would not be heard. Since this information was not provided, on March 31, 1999, the *amparo* claim was denied.¹⁰⁷

iii. *Proceedings before the Juvenile Offender Council of the State of Chiapas*

44. Also attached to the case file, was a copy of the file of the case brought before the Juvenile Offender Council of the state of Chiapas against Juan Regino López Leoporto.¹⁰⁸ The following proceedings appear therein:

- i. Said case was opened on February 4, 1999, when the Agent of the Public Prosecutors Office brought Juan Regino López Leoporto before the person in charge of the Juvenile Offender Protection Center, Villa Finca Crisol, Berriozabla, Chiapas, as a suspect responsible for the “Illegal deprivation of Liberty” of Antonio González Méndez, also handing over the records and evidence compiled in the Pre-trial investigation File.¹⁰⁹
- ii. Dated February 7, 1999, after Juan Regino López Leoporto was read his initial statements and confirmed every part of them and based on the records in the case file of the pre-trial investigation, it was determined that he would be admitted to the Juvenile Diagnostic and Treatment Center to perform bio-psychosocial assessments on him and collect evidence.¹¹⁰
- iii. On February 26, 1999, the State Juvenile Council set bail at \$1.000,00 [Mexican pesos] as surety for pre-trial release.¹¹¹
- iv. On March 4, 1999, the bio-psychosocial report was attached to the case file, recommending that a period of institutionalization be set for the minor to receive psychological care with individual and group therapy, medical care and education support.¹¹²
- v. On March 15, 1999, the General Coordinator’s Office in Los Altos and Selva de Chiapas of the National Human Rights Commission sent a letter to the President of the Juvenile Offender Council of the State of Chiapas, letting him know that he had received a formal written complaint signed by the organization “Indignación, Promoción y Defensa de los Derechos Humanos, A.C.” making reference to the disappearance of Antonio González Méndez and noting, among other things, that since January 23, 1999, the paramilitary group Paz y Justicia, which inhabits the sector of Buenavista, Sabanilla, had set up a checkpoint on the outskirts of *ejido* Sushupá and *ejido* Buenavista, in an armed operation to kidnap leaders or community members that did not agree with Paz y Justicia.¹¹³
- vi. On March 19, 1999, a face-to-face testimonial hearing proceeding was held between Juan Regino López Leoporto and Sonia López Juárez, wherein both of them confirmed their prior statements, adding in particular the following information: Sonia López Juárez stated that it was not necessary to go through Ejido Sushupá or Ejido Buena Vista to reach El Calvario and claimed that she knew that Juan López Leoporto was a member of Paz y Justicia because he himself had said so. For his part, Juan López Leoporto denied saying that he belonged to and denied that he was a member of Paz y Justicia. He also contended that the gun and ammunition that he sold to Antonio González belonged to his father and that he had inherited them. He further asserted that residents of the same El Calvario sector had told him that Antonio

¹⁰⁷ Annex 02. Relevant Documents from Amparo Proceeding 238/99, pgs. 1-6. Annex 18. Petitioner’s Submission, January 15, 2008.

¹⁰⁸ Annex 03. Case File 072/99 of the Juvenile Offender Council of the State of Chiapas. Annex 16. Petitioner’s Submission, January 15, 2008.

¹⁰⁹ Annex 03. Case File 072/99 of the Juvenile Offender Council of the State of Chiapas, pages 1-29th. Annex 16. Petitioner’s Submission, January 15, 2008.

¹¹⁰ Annex 03. Case File 072/99 of the Juvenile Offender Council of the State of Chiapas, pages 30-40. Annex 16. Petitioner’s Submission, January 15, 2008.

¹¹¹ Annex 03. Case File 072/99 of the Juvenile Offender Council of the State of Chiapas, page 54. Annex 16. Petitioner’s Submission, January 15, 2008.

¹¹² Annex 03. Case File 072/99 of the Juvenile Offender Council of the State of Chiapas, pages 58-60. Annex 16. Petitioner’s Submission, January 15, 2008.

¹¹³ Annex 03. Case File 072/99 of the Juvenile Offender Council of the State of Chiapas, pages 64-65. Annex 16. Petitioner’s Submission, January 15, 2008.

González was a Zapatista and that Antonio González told him he was in love with another woman and that her husband was doing him harm.¹¹⁴

- vii. On March 25, 1999, Juan Regino López Leoporto was granted pre-trial release, to the custody of his family, after posting bail set at \$1.000,00.¹¹⁵
- viii. On May 3, 1999, at the request of the Commissioner assigned to the Juvenile Offender Council of the State and in the presence of the defense attorneys of the interests of the accused and of the offended party, among others, an on-site inspection was conducted of the location of the incidents in the Sabanilla sector, Chiapas, at the location of the Sabanilla river. The record of the inspection provides a detailed description of the vegetation and topography of the location, including the area where the Municipal Commander stated that the transaction between Juan López and Antonio González had taken place. It is relevant to note that the record reflects that no signs of recent excavation were observed in the area. No potential witnesses were questioned nor were any other investigatory steps taken other than observation of the location.¹¹⁶
- ix. On March 10, 2000, a final ruling was issued in the proceeding before the Juvenile Offender Council noting that based on examination and analysis of the case records, “the elements of the *corpus delicti* of the criminal offense of illegal deprivation of liberty have not been fulfilled.” Even though the circumstances of the report of the disappearance of Antonio González are described in detail by his wife and Juan López acknowledged that the events of January 18, 1999 took place as described in the report and her statements, because the elements of the crime of illegal deprivation of liberty are not present, it was ordered to “stop proceeding to the examination of full social liability of minor Juan Regino López Leoporto” and that he be released for good “due to lack of evidence supporting the elements of the body of the offense [...] for which the assigned Commissioner accused him.”¹¹⁷

IV. LEGAL ANALYSIS

A. Rights to juridical personality,¹¹⁸ to life,¹¹⁹ to humane treatment,¹²⁰ and personal liberty,¹²¹ in connection with Article 1.1¹²² of the American Convention

45. In its consistent legal precedent on cases of forced disappearance of persons, the Inter-American human rights protection system has held that it constitutes an illegal act that gives rise to a multiple and continuing violation of several rights protected by the American Convention and places the victim in a state of complete defenselessness, bringing other related crimes in its wake. The State’s international responsibility is increased when the disappearance forms part of a systematic pattern or practice applied or tolerated by the State. In brief, it is a crime against humanity involving a gross rejection of the essential principles on which the

¹¹⁴ Annex 03. Case File 072/99 of the Juvenile Offender Council of the State of Chiapas, pages 69-71st. Annex 16. Petitioner’s Submission, January 15, 2008.

¹¹⁵ Annex 03. Case File 072/99 of the Juvenile Offender Council of the State of Chiapas, pages 80-84. Annex 16. Petitioner’s Submission, January 15, 2008.

¹¹⁶ Annex 03. Case File 072/99 of the Juvenile Offender Council of the State of Chiapas, page 89-89th. Annex 16. Petitioner’s Submission, January 15, 2008.

¹¹⁷ Annex 03. Case File 072/99 of the Juvenile Offender Council of the State of Chiapas, pages 100-102nd. Annex 16. Petitioner’s Submission, January 15, 2008.

¹¹⁸ Article 3 of the American Convention establishes the following: “Article 3. Right to Juridical Personality. Every person has the right to recognition as a person before the law.”

¹¹⁹ Article 4.1 of the American Convention establishes the following: “Article 4. Right to Life 1. 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.”

¹²⁰ Article 5.1 of the American Convention establishes the following: “Article 5. Right to Humane Treatment 1. Every person has the right to have his physical, mental, and moral integrity respected.”

¹²¹ Article 7 of the American Convention establishes, in the relevant portion, the following: “Article 7. Right to Personal Liberty 1. Every person has the right to personal liberty and security.”

¹²² Article 1.1 of the American Convention establishes the following: “Article 1. Obligation to Respect Rights 1. The States Parties to this Convention undertake to respect the rights and freedoms recognized herein and to ensure to all persons subject to their jurisdiction the free and full exercise of those rights and freedoms, without any discrimination for reasons of race, color, sex, language, religion, political or other opinion, national or social origin, economic status, birth, or any other social condition.”

Inter-American system is based.¹²³ Therefore, States are obligated to not practice or tolerate the forced disappearance of persons in any circumstance. Likewise, they must take reasonable steps to prevent this crime from being committed, carry out a serious investigation into what happened in order to identify those responsible and impose the appropriate punishment on them, as well as ensure the victim's adequate reparation.¹²⁴

46. According to its consistent case law, the Commission considers forced disappearance to be a complex violation of human rights that continues in time as long as the whereabouts of the victim or his remains is unknown. A disappearance, as such, ceases only when the victim appears or his remains are found.¹²⁵ Likewise, the Court has consistently and repeatedly held that forced disappearance of persons is characterized by its multiplicity of offenses, ongoing and continuous nature, with the following coexisting and constituent elements: a) deprivation of liberty; b) direct intervention of State agents, at least indirectly by their concurrence, and c) refusal to acknowledge the detention and reveal the fate or the whereabouts of the person involved.¹²⁶ The Court has clearly stated that the continuous and ongoing nature of forced disappearance of persons is based on the fact that the offense begins with the deprivation of liberty of the individual and the subsequent lack of information about his fate and this remains the case until his whereabouts are known or his remains are found.¹²⁷

47. With respect to the rights that are violated, forced disappearance violates the right to personal liberty and places the victim in a serious situation of risk of suffering irreparable harm to his right to physical integrity and life. The Court has held that the practice of forced disappearance often involves secret execution without trial, followed by concealment of the body to eliminate any material evidence of the crime and to ensure the impunity of those responsible. This is a flagrant violation of the right to life.¹²⁸ Furthermore, even if acts of torture or the deprivation of life of the victim of disappearance cannot be proven in a particular case, subjecting detainees to State agents or private individuals who act with their tolerance or acquiescence, who engage in torture and murder with impunity, is itself a breach of the duty to prevent violations of the rights to life and physical integrity.¹²⁹

¹²³ IACHR. Application before the Inter-American Court of Human Rights. Case No. 11.324. Narciso González et al. Dominican Republic. May 2, 2010, par. 103; IACHR. Application before the Inter-American Court. Case 12.517. Gregoria Herminia Contreras et al. El Salvador. June 28, 2010, par. 131; IA Court of HR, *Case of Goiburú et al v. Paraguay*. Merits, Reparations and Costs. Judgment of September 22, 2006. Series C No. 153 ("*Goiburú et al* Judgment"), par. 82. See also: IACHR. Report No. 101/01. Case 10.247 et al. Extrajudicial executions and forced disappearances of persons. Peru. October 10, 2001, par. 178; IA Court of HR, *Case of Gómez Palomino v. Peru*. Merits, Reparations and Costs. Judgment of November 22, 2005. Series C No. 136 ("*Gómez Palomino* Judgment"), par. 92; *Case of the Serrano Curz Sisters v. El Salvador*. Preliminary Objections. Judgment of November 23, 2004. Series C No. 118, pars. 100 - 106.

¹²⁴ IA Court of HR. *Velásquez Rodríguez* Judgment, par. 174. See also: *Case of Anzualdo Castro v. Peru*. Preliminary Objection, Merits, Reparations and Costs. Judgment of September 22, 2009. Series C No. 202 ("*Anzualdo Castro* Judgment"), par. 62; and *Case of Radilla Pacheco v. Mexico*. Preliminary Objections, Merits, Reparations and Costs. Judgment of November 23, 2009. Series C No. 209 ("*Radilla Pacheco* Judgment"), par. 142.

¹²⁵ IACHR. Application before the Inter-American Court. Case 12.529. Rainer Ibsen Cárdenas and José Luis Ibsen Peña. Bolivia. May 12, 2009, par. 206.

¹²⁶ See, among other ones: IA Court of HR. *Gómez Palomino* Judgment, par. 97; *Case of Heliodoro Portugal v. Panama*. Preliminary Objections, Merits, Reparations and Costs. Judgment of August 12, 2008. Series C No. 186 ("*Heliodoro Portugal* Judgment"), par. 110; *Case of Ticona Estrada et al v. Bolivia*. Merits, Reparations and Costs. Judgment of November 27, 2008. Series C No. 191 ("*Ticona Estrada et al* Judgment"), par. 55; *Radilla Pacheco* Judgment, par. 140; *Case of Chitay Nech et al v. Guatemala*. Preliminary Objections, Merits, Reparations and Costs. Judgment of May 25, 2010. Series C No. 212, par. 85; *Case of Ibsen Cárdenas and Ibsen Peña v. Bolivia*. Merits, Reparations and Costs. Judgment of September 1, 2010. Series C No. 217 ("*Ibsen Cárdenas and Ibsen Peña* Judgment"), par. 60; *Case of Gomes Lund et al ("Guerrilha do Araguaia") v. Brazil*. Preliminary Objections, Merits, Reparations and Costs. Judgment of November 24, 2010. Series C No. 219, par. 104; *Case of Torres Millacura et al v. Argentina*. Merits, Reparations and Costs. Judgment of August 26, 2011. Series C No. 229, par. 95; *Case of Contreras et al v. El Salvador*. Merits, Reparations and Costs. Judgment of August 31, 2011. Series C No. 232, par. 82; *Case of Gudiel Álvarez et al ("Diario Militar") v. Guatemala*. Merits, Reparations and Costs. Judgment of November 20, 2012. Series C No. 253 ("*Gudiel Álvarez et al* Judgment"), par. 193; *Case of García and Family v. Guatemala*. Merits, Reparations and Costs. Judgment of November 29, 2012. Series C No. 258 ("*García and family* Judgment"), par. 97; *Case of Osorio Rivera and Family v. Peru*. Preliminary Objections, Merits, Reparations and Costs. Judgment of November 26, 2013. Series C No. 274 ("*Osorio Rivera and Family* Judgment"), par. 113; *Case of Members of the Chichupac Village and Neighboring Communities of the Municipality of Rabinal v. Guatemala*. Preliminary Objections, Merits, Reparations and Costs. Judgment of November 30, 2016. Series C No. 328, par. 133.

¹²⁷ IA Court of HR. *Case of the Santa Barbara Campesino Community v. Peru*. Preliminary Objections, Merits, Reparations and Costs. Judgment of September 1, 2015. Series C No. 299 ("*Santa Bárbara Campesino Community* Judgment"), par. 161. See also: *Velásquez Rodríguez* Judgment, par. 155; *Blake* Judgment, pars. 65-67; *Osorio Rivera and Family* Judgment, par. 31.

¹²⁸ IA Court of HR. *Velásquez Rodríguez* Judgment, par. 157.

¹²⁹ IA Court of HR. *Velásquez Rodríguez* Judgment, par. 175; *Ticona Estrada* Judgment, par. 59; *Anzualdo Castro* Judgment, par. 85; and *Radilla Pacheco* Judgment, par. 153.

48. Additionally, the Court has found that cases of forced disappearance give rise to the specific violation of the right to recognition as a person before the law, given the multiple and complex nature of this serious human rights violation, which entails the State's refusal to acknowledge that the victim is under its custody and to provide information in that regard, in order to create uncertainty as to his whereabouts, life or death, cause intimidation and suppression of rights.¹³⁰ In fact, in addition to the disappeared person no longer being able to exercise and enjoy all rights to which he is entitled, his disappearance not only aims at one of the most serious forms of placing the person outside of the protection of the law, but also entails denying that person's existence itself and placing him in a kind of limbo or uncertain legal situation before society, the State and even the international community.¹³¹

49. Accordingly, the Commission will determine whether what happened to Antonio González Méndez was a forced disappearance in light of the facts of the case taken as a whole. Bearing in mind that there is no dispute as to the fact that Antonio González has disappeared, but instead the disagreement between the parties in this case is centered on whether or not there is proof of deprivation of liberty by State agents or private individuals acting with the acquiescence and tolerance of the Mexican State, the Commission deems it pertinent to jointly examine the first two elements of the illegal act.

i. As regards deprivation of liberty with direct intervention or acquiescence of State agents

50. The Commission notes that, based on available evidence, Antonio González Méndez was last seen by his wife Sonia López Juárez as he left his residence in the company of Juan Regino López Leoporto at around midnight on January 18, 1999. There is no direct evidence of Antonio González being deprived of liberty by State agents or by paramilitary members of Paz y Justicia with the support or acquiescence of State agents and, therefore, the Commission will examine whether or not the elements of the crime are present in light of circumstantial or presumptive evidence. As noted above, this evidence is especially important in cases of forced disappearance because of the very nature of this violation.

51. Firstly, the Commission points to several contextual elements that are supported by many pieces of evidence. As was laid out in the findings of fact, as of 1995 and in implementing the plan known as the "1994 Chiapas Campaign Plan," with the support of paramilitary organizations, the Mexican armed forces engaged in a counterinsurgent campaign aimed at regaining PRI control over Chiapas, identifying the EZLN and the PRD as "enemy forces," with anyone who was either a member of or sympathizer of those groups or perceived as such, being at risk. In fact, pursuant to the findings of context, these individuals were targeted victims of serious human rights violations, as a consequence of this strategy. As to the type of violations that took place, forced disappearance was cited as one of several. Finally, with regard to context, the Commission notes that around 1998, when Antonio González disappeared, there continued to be a presence of the armed forces in predominantly indigenous areas as part of the counterinsurgent effort.

52. Secondly, there are several pieces of evidence linking Antonio González to said context. On the one hand, Antonio González was a native Ch'ol indigenous person from El Calvario, a community linked to the emergence of the EZLN and he was a known sympathizer and member of its grassroots support. On the other hand, Antonio also worked as manager of a cooperative store belonging to said community and was a member of the PRD. In his statements, Juan López even speculated once that Antonio González could have been murdered because he was a Zapatista. Based on the foregoing, the Commission can surmise that Antonio González was readily identifiable specifically as a member of the groups against whom the repression and counterinsurgent effort were aimed and, therefore, he was a clear target in this context.

53. However, as regards Juan López, the Commission notes that the case file contains references to this person being a member of the Paz y Justicia paramilitary group. These references were made by Antonio González's wife and the petitioners themselves in this case, the Centro de Derechos Humanos Fray Bartolomé de las Casas. Moreover, the EZLN Good Governance Junta attributes the disappearance of Antonio González to

¹³⁰ IA Court of HR. *Anzualdo Castro* Judgment, pars. 90-92; *Radilla Pacheco* Judgment, par. 157.

¹³¹ IA Court of HR. *Anzualdo Castro* Judgment, par. 90.

the paramilitary group Paz y Justicia, but does not directly identify Juan López as a member of the group or provide further support in that regard. The Commission finds that membership of his family to the PRI alone does not make it possible, even in the context described above, to infer Juan López's membership in the paramilitary group. Thus, even though the Commission finds as proven fact the specific context making Antonio González a potential target of the violence perpetrated by the aforementioned paramilitary group, with the State's acquiescence, the information available to it is insufficient to draw the conclusion, even based on circumstantial evidence, that the person with whom Mr. González left his residence voluntarily the day of his disappearance was a member of the Paz y Justicia paramilitary group. Consequently, an inference of the deprivation of liberty by a person acting with the acquiescence of the State cannot be made even circumstantially.

54. The Commission notes that the State did not provide an alternative hypothesis to the forced disappearance based on a diligent and effective investigation. While in certain cases,¹³² the Commission and the Court have assigned evidentiary value to serious and consistent indications of State responsibility when they are not investigated adequately, in the instant case the indication of State responsibility arising from the link between Juan López and the paramilitary group acting in the area with the acquiescence of the State, is based solely on the statements of the wife of Antonio González, without any other evidence of corroboration, even of a circumstantial nature.¹³³ Notwithstanding, the deficiencies in the investigation will be examined in the following section of the instant report.

55. In such circumstances, the Commission considers that there is no sufficient information to consider established the first two constituent elements of forced disappearance and, therefore, it will not proceed to examine the third one. Based on the foregoing considerations, the Commission concludes that the Mexican State is not responsible for the violation of the rights established in Articles 3, 4.1, 5.1 and 5.2 and 7.1 of the American Convention to the detriment of Antonio González Méndez.

B. Rights to a fair trial¹³⁴ and judicial protection,¹³⁵ in connection with Articles 1.1 and 2 of the Convention and Article I b) of the Inter-American Convention on the Forced Disappearance of Persons¹³⁶

56. The Court has established that States are obliged to provide victims of human rights violations with effective judicial remedies (Article 25), which must be adjudicated in accordance with the rules of due process of law (Article 8.1) all under States' general obligation to ensure the free and full exercise of the rights enshrined in the Convention for every person under their jurisdiction (Article 1.1).¹³⁷

57. Under Inter-American case law, when a petition involves the disappearance of a person, there is an inseparable link between the State response and protection of the life and integrity of the person that has been reported missing. The immediate and exhaustive nature of the State's response is independent of whether or not the case involves a disappearance at the hands of private individuals or of State agents. In fact, when the

¹³² IA Court of HR. *Case of Kawas Fernández v. Honduras*. Merits, Reparations and Costs. Judgment of April 3, 2009. Series C No. 196, pars. 95-97.

¹³³ IA Court of HR. *Case of Pacheco León et al v. Honduras*. Merits, Reparations and Costs. Judgment of November 15, 2017. Series C No. 342, pars. 152-153.

¹³⁴ Article 8.1 of the American Convention establishes the following: "Article 8. Right to a Fair Trial. 1. 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."

¹³⁵ Article 25.1 of the American Convention establishes the following: "Article 25. Judicial Protection. 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."

¹³⁶ The Mexican State deposited its instrument of ratification of said treaty on April 9, 2002. In this regard, and taking into account that a potential forced disappearance is alleged and that the investigation was still open at that time, the Commission also considers to be applicable Article 1 b) of the Inter-American Convention on the Forced Disappearance of Persons, which in the relevant portion establishes: "Article 1. The States Parties to this Convention undertake: [...]b) To punish within their jurisdictions, those persons who commit or attempt to commit the crime of forced disappearance of persons and their accomplices and accessories."

¹³⁷ IA Court of HR. *Case of Velásquez Rodríguez v. Honduras*. Preliminary Objections. Judgment of June 26, 1987. Series C No. 1, par. 91.

acts of private parties are not investigated, those parties are aided in a sense by the government, thereby making the State responsible in the international sphere.¹³⁸ The Commission recalls that when there are reasonable grounds to suspect that a person has been subjected to disappearance, the prompt and immediate action of prosecution and judicial authorities is essential, timely ordering the necessary measures aimed at determining the whereabouts of the victim or the place where he or she may be deprived of liberty.¹³⁹

58. Even though the State's duty is of means and not of results, this does not mean that it can "be undertaken as a mere formality preordained to be ineffective."¹⁴⁰ In fact, this obligation "must be assumed by the State as its own legal duty, not as a step taken by private interests that depends upon the initiative of the victim or his family or upon their offer of proof, without an effective search for the truth by the government."¹⁴¹ Thus, the State must ensure that "each act of the State that forms part of the investigative process, as well as the investigation as a whole, should have a specific purpose: the determination of the truth, and the investigation, pursuit, capture, prosecution and, if applicable, punishment of those responsible for the facts."¹⁴² Additionally, the case law has been clear in emphasizing that, "in light of this obligation, once the authorities have knowledge of the event, they should initiate a serious, impartial and effective investigation, *ex officio* and without delay [...] utilizing all the legal means available and should be oriented toward the determination of the truth."¹⁴³ In this regard, the State must show that it has conducted an immediate, exhaustive, serious and impartial investigation,¹⁴⁴ which must be aimed at exploring all possible lines of investigation.¹⁴⁵ The State can be responsible for not "ordering, collecting or evaluating evidence," which may be essential to properly elucidate the facts.¹⁴⁶

59. It is also necessary to bear in mind that, when cases in which forced disappearance may have occurred, the Court has held that the right of access to justice includes that in the investigation into the facts, an attempt must be made to determine the fate or the whereabouts of the victim.¹⁴⁷ Additionally, given that one of the goals of forced disappearance is to impede the exercise of legal remedies and the pertinent procedural guarantees, whenever a person is subjected to any form of deprivation of liberty "for the purposes of his or her forced disappearance, if the victim itself cannot have access to available recourses, it is crucial that the next-of-kin or other people related to the victim can have access to expeditious and effective judicial procedures and recourse as a means of determining the whereabouts."¹⁴⁸ The *habeas corpus* remedy constitutes, among the indispensable judicial guarantees, the most suitable means to guarantee personal liberty and integrity, avoid disappearances or uncertainty about detention centers, and to protect the individual from torture or other forms of cruel, inhumane or degrading treatment and, ultimately, ensure the right to life.¹⁴⁹ However, if the writ of *habeas corpus* requires "the identification of the place of detention and the authority ordering the detention, it would not be adequate for finding a person clandestinely held."¹⁵⁰ Applicability of these standards to the instant case is not precluded by the above-reached conclusion about the lack of sufficient evidence to deem the facts to be a forced disappearance based on available information. These standards are fully applicable, taking into account that the hypothesis of forced disappearance was raised from the beginning with the authorities in charge of the investigation and, therefore, both the pretrial investigation and the *amparo* proceeding, should have fulfilled the aforementioned obligation.

¹³⁸ IA Court of HR. *Velásquez Rodríguez* Judgment, par. 177.

¹³⁹ IA Court of HR. *Anzaldo Castro* Judgment, par. 134; *Ibsen Cárdenas and Ibsen Peña* Judgment, par. 167.

¹⁴⁰ IA Court of HR. *Velásquez Rodríguez* Judgment, par. 177; *Heliodoro Portugal* Judgment, par. 144; *Case of Valle Jaramillo et al v. Colombia*. Merits, Reparations and Costs. Judgment of November 27, 2008. Series C No. 192 ("*Valle Jaramillo* Judgment"), par. 100.

¹⁴¹ IA Court of HR. *Velásquez Rodríguez* Judgment, par. 177.

¹⁴² IA Court of HR. *Case of Cantoral Huamaní and García Santa Cruz v. Peru*. Preliminary Objection, Merits, Reparations and Costs. Judgment of July 10, 2007. Series C No. 167, par. 131.

¹⁴³ IA Court of HR. *Case of García Prieto et al v. El Salvador*. Preliminary Objections, Merits, Reparations and Costs. Judgment of November 20, 2007. Series C No. 168, par. 101.

¹⁴⁴ IACHR. Report No. 55/97. Merits. Juan Carlos Abella et al. Argentina. November 18, 1997, par. 412.

¹⁴⁵ IACHR. Report No. 25/09. Merits. Sebastião Camargo Jr. Brazil, March 19, 2009, par. 109.

¹⁴⁶ IA Court of HR. *Case of the "Street Children" (Villagrán Morales et al) v. Guatemala*. Merits. Judgment of November 19, 1999. Series C No. 63, par. 230.

¹⁴⁷ IA Court of HR. *Radilla Pacheco* Judgment, par. 143, 191; *Velásquez Rodríguez* Judgment, par. 181

¹⁴⁸ IA Court of HR. *Anzaldo Castro* Judgment, par. 64; *Radilla Pacheco* Judgment, par. 141; *Ibsen Cárdenas and Ibsen Peña* Judgment, par. 64.

¹⁴⁹ IA Court of HR. *Anzaldo Castro* Judgment, par. 72; *Case of Castillo Páez v. Peru*. Merits. Judgment of November 3, 1997. Series C No. 34, par. 83.

¹⁵⁰ IA Court of HR. *Velásquez Rodríguez* Judgment, par. 65.

60. In the instant case, the IACHR finds that the steps taken in the three proceedings, that were opened in the domestic arena, were ineffective and not aimed at actively and seriously searching for the truth about what happened or finding the whereabouts or the remains of the disappeared person. In fact, the agents of the Public Prosecutor's Office in the pretrial investigation merely took repeated statements from the wife of the disappeared person and the suspect and sent letters to the police departments instructing them to investigate the reported facts and find the missing person. Nonetheless, no active search was undertaken thereof or any serious analysis conducted of the information gathered with a view toward taking any further investigative steps or following lines of investigation to effectively find the disappeared persons and those responsible for his disappearance.

61. In particular, even though the suspect claimed that the disappeared person had headed in the direction of El Calvario through Santa Catarina and then later claimed that he was in the Nueva Esperanza sector, authorities only performed searches of the vicinity of the Sabanilla river, where the suspect claimed to have last seen him, and no other search seems to have been conducted anywhere else. Furthermore, despite the fact that it was asserted by witnesses and information provided by different sources that Antonio González was an EZLN sympathizer and PRD member and that it was alleged by his wife and the Centro de Derechos Humanos Fray Bartolomé de las Casas that Juan López was a member of Paz y Justicia, none of these organizations seems to have been investigated; nor did authorities design, pursue and fully exhaust the line of investigation tied to the context of political strife being experienced in the area at the time of the facts of the case or follow lines of investigation pertaining to the alleged participation of the Paz y Justicia paramilitary group in the facts of the case.

62. Similarly, the Public Prosecutor's Office took almost three years to request a photograph of the disappeared person in order to aid in the search for him. Likewise, the Commission cannot fail to note, as a clear sign of the failure of the State to meet its obligations under Articles 8 and 25 of the Convention, and that no serious, exhaustive and impartial investigation was conducted, what was attested on July 16, 2007 by a Prosecuting Attorney of the Office of the Public Prosecutor, who identified a number of irregularities in the case noting that the letters that were ordered to be issued "may or may not have been written and sent or could have been misplaced." In response to such a serious determination, the case file shows no record of any follow up or triggering of any mechanism to determine liability, or seriously reopening the investigation, which was closed only a few months later on the grounds of lack of evidence and without any measure being taken to amend the irregularities that had been ascertained and make up for the failure to gather evidence.

63. This was also the case in the administrative proceeding before the Juvenile Council, in which only statements were taken and one on-site visit was conducted in the same area of the Sabanilla river where it was alleged that the weapons transaction had taken place between Antonio González and Juan López. However, even though in this proceeding the alleged deprivation of liberty of Antonio González was investigated, he was never searched for in Pasijal Morelos, where the main person suspected of his disappearance specifically resided.

64. Lastly, as has been previously determined by the Commission and recently upheld by the Court, the *amparo* proceeding in force at that time in Mexico, which made it an essential requirement for the victim to say where he or she was being held, in order to have grounds for the claim, was wholly unsuitable to determine the whereabouts of a missing person and ineffective in cases of forced disappearances.¹⁵¹ Accordingly, both the regulation and the application of this remedy did not constitute an effective mechanism to provide a response to a report of a potential forced disappearance. The fact that the law regulating the *amparo* proceeding has been amended subsequent to the case is relevant for purposes of recommendations relating to non-repetition, to the extent that this issue would be cured in the future, but for purposes of determining international responsibility in the case before us, it does not relieve the state of its responsibility but rather confirms it.

¹⁵¹ IACHR. Report No. 2/06. Merits. Miguel Orlando Muñoz. Mexico. February 28, 2006, pars. 69-70; IA Court of HR. *Case of Alvarado Espinoza et al v. Mexico*. Merits, Reparations and Costs. Judgment of November 28, 2018. Series C No. 370, pars. 259, 319

65. Additionally, the Commission notes another factor that has obstructed diligent pursuit of the investigation, which has to do with the different ways in which the facts have been classified as crimes in the context of the different investigations that were opened. Thus, although the original reports clearly showed information to suggest that the case may involve forced disappearance, the acts were classified in different investigations as “criminal acts” and “illegal deprivation of liberty.” On this score, while it is incumbent upon domestic authorities to establish which crimes are applicable within the scope of their purview, it can happen that inadequate domestic classification becomes a factor of impunity, either because these classifications do not reflect the seriousness of the conduct or because they impede a thorough investigation of all matters constituting serious human rights violations. That is why several international instruments on serious human rights violations such as torture and forced disappearance require the States Parties to provide a suitable legal definition of these criminal offenses under their domestic law. This means that, when the facts exist to consider what occurred as an act of forced disappearance, the respective investigations must be opened under this statutory classification of criminal offense since, otherwise, essential elements of this serious human rights violation, such as concealment or refusal to provide information, would go uninvestigated.¹⁵² The Commission considers the failure to identify the reported facts, from the outset of the investigation, as possible forced disappearance, to have had an impact on the way the investigation unfolded, affecting the diligence and immediacy required in these cases.

66. All of the foregoing elements, taken as a whole, lead to the conclusion that the State has not investigated the facts of the instant case with due diligence, in violation of the rights enshrined in Articles 8.1 and 25.1 of the American Convention in connection with Articles 1.1 and 2 of the same instrument and breached its obligation as set forth in Article I b) of the ICFDP, to the detriment of Antonio González Méndez, his wife Sonia López Juárez and their children Ana González López, Magdalena González López, Gerardo González López and Elma Talía González López.

C. Right to personal integrity with respect to the family

67. The bodies of the Inter-American system have repeatedly held that the relatives of the victims of certain serious human rights violations may, in turn, become victims of violations of their own personal integrity.¹⁵³ Specifically regarding the suffering endured by the family members of victims of forced disappearance, the Court has established that “the violation of those relatives’ mental and moral integrity is a direct consequence of the forced disappearance. The circumstances of such disappearances generate suffering and anguish, in addition to a sense of insecurity, frustration and impotence in the face of the public authorities’ failure to investigate.”¹⁵⁴

68. Similarly, the Court has determined on many occasions that “the right to mental and moral integrity of the victims’ next of kin” must be considered “violated, due to the additional suffering and pain that they have endured because of the subsequent acts or omissions of state authorities regarding the facts, and due to the lack of effective remedies.”¹⁵⁵ In fact, “the absence of a complete and effective investigation into the facts constitutes a source of additional suffering and anguish for the victims and their next of kin, who have the right to know the truth of what happened. This right to the truth requires a procedural determination of the most complete historical truth possible.”¹⁵⁶

69. In the instant case, the Commission finds that even though it has not been classified as forced disappearance in the instant report, the mere fact that Antonio González Méndez remains missing to date, has caused deep feelings of grief, anguish and uncertainty, which have been growing deeper because of the failure to effectively and diligently investigate. Based on the foregoing, as for the grief and anguish Antonio González

¹⁵² IACHR. Report No. 3/16. Merits. Nitza Paola Alvarado Espinoza, Rocío Irene Alvarado Reyes, José Ángel Alvarado Herrera et al. Mexico. April 13, 2016, pars. 266-268.

¹⁵³ IA Court of HR. *Case of “Las Dos Erres” Massacre v. Guatemala*. Preliminary Objection, Merits, Reparations and Costs. Judgment of November 24, 2009. Series C No. 211, (“*Las Dos Erres Massacre Judgment*”), par. 206.

¹⁵⁴ IA Court of HR. *Blake Judgment*, par. 114.

¹⁵⁵ IA Court of HR. *Las Dos Erres Massacre Judgment*, par. 206.

¹⁵⁶ IA Court of HR. *Valle Jaramillo Judgment*, par. 102. See also: IA Court of HR. *Case of the Ituango Massacres v. Colombia*. Judgment of July 1, 2006. Series C No. 148, par. 261; *Case of the “Massacre of Mapiripán” v. Colombia*. Judgment of September 15, 2005. Series C No. 134, par. 145.

Méndez's next of kin have endured and still endure, the Commission finds that they are, in turn, victims of the violation of their right to personal integrity.

70. Consequently, the Commission concludes that the State violated the right to humane treatment enshrined in Article 5.1 of the American Convention in connection with the obligations set forth in Article 1.1 thereof, to the detriment of the next of kin of disappeared person Antonio González Méndez, namely, his wife Sonia López Juárez and their children Ana González López, Magdalena González López, Gerardo González López and Elma Talía González López.

V. CONCLUSIONS AND RECOMMENDATIONS

71. The Commission concludes that the State of Mexico is responsible for violation of the rights to humane treatment, a fair trial and judicial protection. All of the foregoing, pursuant to Articles 5.1, 8.1 and 25.1 of the American Convention in connection with Articles 1.1 and 2 of the same instrument. Likewise the State breached the obligations set forth in Article I b) of the ICFDP.

72. Based on the foregoing conclusions,

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS, RECOMMENDS THE STATE OF MEXICO,

1. To provide adequate reparation for all the human rights violations recognized in the instant report, of both a pecuniary and non-pecuniary nature, and implement a program of rehabilitation, including adequate psychological and psycho-social care for the disappeared victim's next of kin. The measures of satisfaction and rehabilitation will be determined with the full consensus of the victims.

2. To investigate the fate or whereabouts of Antonio González Méndez and, if applicable, take the necessary measures to identify and hand over his remains to his family.

4. To reopen domestic proceedings to effectively investigate, pursue, arrest, prosecute and potentially punish those responsible for the human rights violations established in the instant report and conduct investigations in an impartial, effective and timely way in order to thoroughly clarify the facts, identify the masterminds and actual perpetrators and impose punishment as appropriate, pursuant to applicable international standards. In fulfillment of this recommendation, the State is to exhaustively investigate the facts in light of the context established in the instant report, in order to identify everyone responsible as provided for above, including patterns of conduct arising from said context and from possible structures of power that may have been linked to the disappearance of Antonio González Méndez.

5. To adopt the necessary measures to prevent similar incidents from happening in the future. In particular, build the capacity of the judiciary to investigate adequately and efficiently serious human rights violations, including possible forced disappearances within the framework of the context described in the present report, and punish those responsible, including the material and technical resources required to ensure proper conduct of the investigation proceedings