



INTER-AMERICAN COMMISSION ON HUMAN RIGHTS  
COMISIÓN INTERAMERICANA DE DERECHOS HUMANOS  
COMISSÃO INTERAMERICANA DE DIREITOS HUMANOS  
COMMISSION INTERAMÉRICAINNE DES DROITS DE L'HOMME



**ORGANIZATION OF AMERICAN STATES**  
WASHINGTON, D.C., 2 0 0 0 6 U. S.

July 8, 2011

**Ref.: Case No. 12.416**  
***Santo Domingo Massacre***  
**Colombia**

Mr. Secretary:

I am pleased to address you on behalf of the Inter-American Commission on Human Rights in order to file before the jurisdiction of the Honorable Inter-American Court of Human Rights, Case No. 12.416, *Santo Domingo Massacre v. the Republic of Colombia* (hereinafter "the State", "the Colombian State," or "Colombia"), related to a bombing perpetrated on December 13, 1998 by the Colombian Air Force on the hamlet of Santo Domingo, in the municipality of Tame, Arauca department. Specifically, a cluster device was launched that, in accordance with the information available at the time that it issued its merits report, resulted in the death of 17 civilians, among them four boys and two girls. Furthermore, 27 civilians were wounded, including four boys and five girls. After the explosion of the device, the law enforcement agents continued, from the air, to bomb civilians who were trying to assist the wounded and attempting to escape from the hamlet. After the event, the entire population of Santo Domingo was displaced and in January 1999 its residents returned to rebuild their homes. These facts remain in impunity because the State did not undertake a serious and effective investigation to identify the intellectual and other perpetrators responsible and, if need be, to impose the corresponding punishments. In its merits report, the IACHR concluded that, more than twelve years after the facts, only one sentence, from a lower court, has been announced against the crew of the helicopter that launched the device.

Mr.  
Pablo Saavedra Alessandri, Secretary  
Inter-American Court of Human Rights  
Box 6906-1000  
San José, Costa Rica

Appendices

The State of Colombia ratified the American Convention on Human Rights (hereinafter "the American Convention", "the Convention," or "the CADH") on July 31, 1973, and accepted the jurisdiction of the Inter-American Court on June 21, 1985.

The Commission has appointed Commissioner María Silvia Guillén and IACHR Executive Secretary Santiago A. Canton as its delegates. Furthermore, Elizabeth Abi-Mershed, Deputy Executive Secretary, Silvia Serrano Guzmán, and María José Veramendi will act as legal advisers.

Pursuant to Article 35 of the Rules of Procedure of the Inter-American Court, the Commission attaches a copy of report 61/11 and its appendices, prepared in accordance with Article 50 of the Convention, a copy of the entire file before the Inter-American Commission (Appendix I), as well as the documents used in preparing report 61/11 (Appendixes). This merits report was notified to the Colombian State through a communication dated April 8, 2011, granting the State a two-month period to report on compliance with the recommendations. By a communication dated June 7, 2011 the Colombian State requested an extension for submitting the information. An extension up to June 30, 2011 was granted. To date, the State has not presented the requested information.

Accordingly, the Commission submits the instant case to the jurisdiction of the Inter-American Court because of the need to obtain justice in light of the State's noncompliance with the recommendations. The Inter-American Commission submits to the jurisdiction of the Court all the facts and human rights violations described in Merits Report 61/11. Accordingly, the IACHR asks the Court to conclude and declare that the State of Colombia incurred international responsibility by:

1. Violating the right to life established in Article 4(1) of the American Convention in conjunction with Article 1(1) of the same instrument to the detriment of Levis Hernando Martínez Carreño, Teresa Mojica Hernández de Galvis, Edilma Leal Pacheco, Salomón Neite, María Yolanda Rangel, Pablo Suárez Daza, Carmen Antonio Díaz Cobo, Nancy Ávila Castillo (or Abaunza), Arnulfo Arciniegas Velandia (or Calvo), Luis Enrique Parada Roper, and Rodolfo Carrillo.
2. Violating the right to life established in Articles 4(1) and 19 of the American Convention in conjunction with Article 1(1) of the same instrument to the detriment of the following children: Jaime Castro Bello (aged 4), Luis Carlos Neite Méndez (5), Oscar Esneider Vanegas Tulibila (12), Geovani Hernández Becerra (14), Egna Margarita Bello (5), and Katherine (or Catherine) Cárdenas Tilano (7).
3. Violating the right to life and the right to humane treatment established in Articles 4(1) and 5(1) of the American Convention in conjunction with Article 1(1) of the same instrument to the detriment of: Alba Yaneth García, Fernando Vanegas, Milciades Bonilla Ostos, Ludwing Vanegas, Xiomara García Guevara, Mario Galvis, Fredy Monoga Villamizar (or Fredy Villamizar Monoga), Mónica Bello Tilano, Maribel Daza, Amalio Neite González, Marian Arévalo, José Agudelo Tamayo, María Panqueva, Pedro Uriel Duarte Lagos, Ludo Vanegas, Adela Carrillo, Alcides Bonilla, and Fredy Mora.

4. Violating the right to life and the right to humane treatment established in Articles 4(1), 5(1), and 19 (Rights of the Child) of the American Convention in conjunction with Article 1(1) of the same instrument to the detriment of the following minors: Marcos Neite (5), Erinson Olimpo Cárdenas (9), Ricardo Ramírez (11), Hilda Yuraime Barranco (14), Lida Barranca (8), Yeimi Viviana Contreras (17), Maryori Agudelo Flórez (17), Rosmira Daza Rojas (17), and Neftalí Neite (17).

5. Violating the right to property established in Article 21(1) and (2) of the American Convention in conjunction with Article 1(1) of the same instrument to the detriment of the victims, who were robbed of their belonging, and the survivors living in the Santo Domingo district, whose homes and belongings were destroyed or taken from them.

6. Violating the right to freedom of movement and residence established in Article 22(1) of the American Convention in conjunction with Article 1(1) of the same instrument to the detriment of those who moved away from the Santo Domingo district.

7. Violating the rights to a fair trial and to judicial protection established in Articles 8(1) and 25 of the American Convention in conjunction with Article 1(1) of the same instrument to the detriment of the victims wounded and the family members of the victims listed in Annex 1 to the Report on the Merits.

8. Violating the right to humane treatment established in Article 5(1) of the American Convention in conjunction with Article 1(1) of the same instrument to the detriment of the family members of the victims listed in Annex 1 to the Report on the Merits.

With regard to the identification of the victims of the violations to the rights to freedom of movement and residence, and to property, because of the very nature of the facts of the case the Commission was unable to obtain accurate information that would enable it to specifically name all the victims of these violations. Given the intrinsic characteristics of the violations established, as well as the displacement and its consequences, the Commission gave special consideration in its merits report to the need to apply a broad understanding of the definition of victims, and to the need for the Colombian State to have a reparation measure that recognizes the community impact of the facts of the case.

In this regard, the Commission informs the Court that in a communication submitted after the issuance of the merits report, the representatives of the victims: i) considered that the victims of the violation to the right enshrined in Article 22 of the American Convention are all of the inhabitants of Santo Domingo who, "on December 13, 1998 were obliged to abandon the town";<sup>1</sup> and ii) specified other people as victims of violations to the rights to property,<sup>2</sup> to a fair trial, to judicial protection, and to mental and moral integrity.<sup>3</sup>

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<sup>1</sup> See Appendix 1. File with the Commission. Communication from the petitioners of June 3, 2011.

<sup>2</sup> See Appendix 1. File with the Commission. Communication of the petitioners of June 3, 2011. CD attached. The victims of this violation named by the petitioners after the report on the merits was issued are: Nelcy Moreno Lizarazo, Irma Nelly Carrillo Mora, Nelcy Carrillo Mora, Marleni Carrillo Mora, Ana Mirian Duran

With this clarification, the Commission considers it necessary that, in the instant case, the Inter-American Court order the following reparation measures:

1. Carry out an impartial and exhaustive inquiry, within a reasonable period of time, with a view to trying and punishing the perpetrators and instigators of the human rights violations described in the report on the merits.
2. Investigate the ties between State agents and the mining enterprise operating in the area in which the events occurred and take appropriate steps to avoid a repetition of events such as those described in the report on the merits.
3. Establish, with community participation in its design and implementation, an act of community reparation that acknowledges the impact of the bombing on the civilian population of the Santo Domingo district, in order to redress its grave and lasting consequences for the community as such, and that includes initiatives in areas such as health, housing, and education.
4. Take the necessary steps to avoid a repetition of patterns of violence against the civilian population, in keeping with the obligation to protect and guarantee the fundamental rights recognized in the American Convention. In particular implement, on a permanent basis, human rights and international humanitarian law programs in institutes for training members of the Armed Forces.
5. Make appropriate reparation for the human rights violations described in the report on the merits, with respect to both material and moral prejudice, including establishment and dissemination of the truth of what happened, commemoration of those who died, and the implementation of an appropriate psychological and social program for the surviving family members.
6. Make reparation to the boys and girls affected by the bombing in the Santo Domingo district through measures aimed at safeguarding the best interests of the child and respect for her or his dignity, children's right to participate, and respect for their opinions in the process of crafting and implementing reparation measures.

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...continuación

Mora, Rosalbina Duran Mora, Carmen Edilia González Ravelo, Romelia Neite de López, Yaritza Lisbeth Vanegas Tulivila, Norberto Leal, Benilda Pacheco de Leal, Norelis Leal Pacheco, Rubiela Leal Pacheco, Edwin Leal Pacheco, Frady Alexi Leal Pacheco, José Rafael Hernández Mujica, Erika Yusdey Hernández Becerra, José Luis Hernández Becerra, Emerita Hernández Becerra, Lucero Talero Sánchez, Pedro Martínez Carreño, José Vicente Martínez Carreño, Claudia Exelina Martínez Carreño, Ana Fidelina Martínez Carreño, Jorge Eliécer Ávila, Sandy Yomaira Ávila Castillo, Pedro Ávila Castillo, Omar Ávila Castillo, Gladis Cecilia Ávila Castillo, Deyci Damaris Cedano, Ascensión Daza Galindo, Eliud Suárez Daza, Eliécer Suárez Daza, José Alirio Suárez Daza, Wilson Suárez Daza, José del Carmen Lizcano, Abraham Puentes Pérez, Matilde Gutierrez Arciniegas, Albeiro Díaz Herrera, Luis Felipe Duran Mora, Luz Dary Téllez Duran, Yamile Téllez Duran, Luz Dary Abaunza Castillo, Wilmer Téllez Duran, Nelly Guerrero Galvis, and Salomón Neite González.

See Appendix 1. File with the Commission. Communication of the petitioners of June 3, 2011. CD attached. The victims of this violation named by the petitioners after the report on the merits was issued are: : Oscar Andrey Galvis Mujica, Albeiro Galvis Mujica, Frady Alexi Leal Pacheco, Norberto Arciniegas Calvo, Argemiro Arciniegas Calvo, Erlinda Arciniegas Calvo, and Orlando Arciniegas Calvo.

The Commission also notes that the case involves matters pertaining to Inter-American public order. Specifically, the instant case will enable the Court to develop its jurisprudence on various topics related to the context of internal armed conflict. First: regarding the states' obligations within the framework of military operations in an internal armed conflict, using international humanitarian law as the source for interpreting the relevant standards of the American Convention. In addition to the matter of direct state responsibility, the instant case also raises the matter of attribution of responsibility to the state for actions by private actors who exercise public functions with the authorization of, in coordination with, and in collaboration with law enforcement forces.

Furthermore, the Court will be able to consolidate its jurisprudence regarding the duty to investigate human rights violations, in accordance with special standards that should be taken into account in cases such as the present one, including the responsibility of high-ranking leaders. Finally, the Court will also be able to delve deeper into the topic of forced displacement and state obligations stemming from such situations.

By virtue of the fact that these issues have an important bearing on the Inter-American public order, the Commission takes the liberty to offer the following expert opinions, pursuant to Article 35.1 f) of the Rules of Procedure of the Inter-American Court:

a) Alejandro Valencia Villa, who will refer to the international standards that determine state obligations in the framework of military operations taking place within the context of internal armed conflict, including obligations toward the civilian population. The expert also will refer to the international standards that should be taken into account when facts such as those of the present case are investigated. In a cross cutting manner with regard to these topics, he will analyze the common grounds and complementarity of international human rights law and international humanitarian law.

b) An expert whose name will be reported shortly, who will refer to the phenomenon of forced internal displacement, state obligations stemming from such situations, as well as the application of these standards to the facts of the instant case, taking into account, among other factors, the context in the area.

Together with the annexes to Merits Report 61/11, the Commission will submit the CV of the proposed experts.

Finally, the Commission informs the Inter-American Court of the contact information of the persons who served as petitioners to the IACHR:

- Corporación Colectivo de Abogados "José Alvear Restrepo" (CCAJAR).

[REDACTED]  
Bogotá, Colombia.

[REDACTED]

- David M. Stahl and Lisa S. Meyer. Eimer Stahl Klevorn & Solberg

[REDACTED]  
Chicago, Illinois 60604



In addition, the IACHR informs the Court that the petitioners have reported that the people who will represent the victims in the proceedings before the Inter-American Court are:

- Corporación Colectivo de Abogados "José Alvear Restrepo" (CCAJAR)
- Humanidad Vigente Corporación Jurídica (HCVJ)
- Fundación de Derechos Humanos "Joel Sierra"
- Asociación para la Protección Social Alternativa "Minga"
- Douglass Cassel<sup>4</sup>

Please accept the renewed assurances of my highest regards.

(Signed in the original)

Elizabeth Abi-Mershed  
Deputy Executive Secretary

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<sup>4</sup> After the notification of the report on the merits, the Commission received various powers of attorney for legal representation. The Commission also received internal files. See Appendix 1. File before the Commission. Annexes to the communication from the petitioners dated June 3, 2011.