

**CASE OF BEDOYA LIMA ET AL. V. COLOMBIA**

**JUDGMENT OF AUGUST 26, 2021.**

**(*Merits, reparations and costs*)**

In the case of *Bedoza Lima et al. v. Colombia*.

the Inter-American Court of Human Rights (hereinafter “the Inter-American Court” or “the Court”), composed of the following judges:\*

Elizabeth Odio Benito, President  
L. Patricio Pazmiño Freire, Vice President  
Eduardo Ferrer Mac-Gregor Poisot, Judge;  
Eugenio Raúl Zaffaroni, Judge, and  
Ricardo Pérez Manrique, Judge,

also present,

Pablo Saavedra Alessandri, Secretary, and  
Romina I. Sijniensky, Deputy Secretary,

pursuant to Articles 62(3) and 63(1) of the American Convention on Human Rights (hereinafter “the American Convention” or “the Convention”) and Articles 31, 32, 62, 65, and 67 of the Rules of Procedure of the Court (hereinafter “the Rules of Procedure” or “the Court’s Rules of Procedure”), delivers this judgment, which is structured as follows:

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\* Judge Humberto Antonio Sierra Porto, a Colombian national, did not take part in the deliberation or signature of this judgment, in accordance with the provisions of Articles 19(1) and 19(2) of the Court’s Rules of Procedure. Likewise, Judge Eduardo Ferrer Mac-Gregor Poisot did not take part in the deliberation and signature of this judgment for reasons of force majeure that were accepted by the full Court.

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## **I** **INTRODUCTION OF THE CASE AND PURPOSE OF THE DISPUTE**

1. *The case submitted to the Court.* On September 6, 2019, the Inter-American Commission on Human Rights (hereinafter "the Inter-American Commission" or "the Commission") submitted to the jurisdiction of the Inter-American Court the case of Bedoya Lima *et al.* versus the Republic of Colombia (hereinafter "the State of Colombia," "the Colombian State," "the State," or "Colombia"). The Commission indicated that the case was related to a series of alleged human rights violations stemming from the kidnapping, torture, and rape of journalist Jineth Bedoya Lima for reasons related to her profession and the State's alleged failure to adopt adequate and timely measures to protect it and prevent the facts from taking place. The Commission asked that the State be declared responsible for the violation of the rights established in articles 4(1), 5(1), 5(2), 7, 8(1), 11, 13, 22, 24, and 25(1) of the American Convention in conjunction with the obligations established in the Article 1(1) of the same instrument, to the detriment of Ms. Bedoya. The Commission likewise concluded that the State was responsible for the violation of Article 7(b) of the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (hereinafter the "Convention of Belém do Pará") and articles 1, 6, and 8 of the Inter-American Convention to Prevent and Punish Torture (hereinafter "the ICPPT"), to the detriment of Ms. Bedoya. Lastly, it asked that the State be declared internationally responsible for the violation of the right to personal integrity enshrined in Article 5(1) of the American Convention, in connection with Article 1(1) of said instrument to the detriment of Ms. Luz Nelly Lima, mother of Ms. Bedoya.

2. *Procedure before the Commission.* The procedure before the Commission was as follows:

- a) *Petition.* - On June 3, 2011, the Commission received the initial petition, presented by the Fundación para la Libertad de Prensa (hereinafter "FLIP") on behalf of Ms. Bedoya and her mother. In 2013, the Center for Justice and International Law (hereinafter "CEJIL") joined in representing her.
- b) *Admissibility Report.* On July 21, 2014, the Commission adopted Admissibility Report 50/14, in which it concluded that the petition was admissible.<sup>1</sup>
- c) *Report on the Merits.* On December 7, 2018, the Commission approved Report on the Merits 150/18, in accordance with Article 50 of the Convention (hereinafter also "the Report on the Merits" or "Report No. 150/18"), in which it reached a series of conclusions<sup>2</sup> and made several recommendations to the State.
- d) *Notification of the State.* The Report on the Merits was notified to the State on January 16, 2019, and it was given two months to report on compliance with the recommendations. At the request of the State, an additional three-month extension was granted.

3. *Submission to the Court.* On September 6, 2019, the Commission submitted all the facts and

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<sup>1</sup> It was notified to the parties on August 6, 2014.

<sup>2</sup> The Commission concluded that the State was internationally responsible for the violation of the rights to life, personal integrity, personal liberty, privacy, freedom of expression, and equal protection enshrined in articles 4(1), 5(1), 5(2), 7, 11, 13, and 24 of the American Convention, in connection with Article 1(1) of the same treaty; Article 7(b) of the Convention of Belém do Pará; and articles 1, 6, and 8 of the ICPPT, to the detriment of Ms. Bedoya. Additionally, it also found violation of the rights to judicial guarantees and judicial protection, enshrined in articles 8(1) and 25(1) of the American Convention, in connection with articles 1(1), 5(1) and 5(2), 11, and 13 thereof, Article 7(b) of the Convention of Belém do Pará, and articles 1, 6, and 8 of the ICPPT, to the detriment of Ms. Bedoya. It also concluded that the State was responsible for the violation of the right to personal integrity enshrined in Article 5(1) of the American Convention, in connection with Article 1(1) of that treaty to the detriment of Ms. Luz Nelly Lima.

human rights violations described in the Merits Report to the jurisdiction of the Inter-American Court, "owing to the need to obtain justice and reparation."<sup>3</sup>

4. *Requests of the Inter-American Commission.* Based on the foregoing, the Commission asked the Court to declare the international responsibility of the State for the violations set forth in its Report on the Merits (*supra* footnote 2). In addition, the Commission asked the Court to order the State to adopt certain measures of reparation, which are described and analyzed in Chapter IX of this judgment. This Court notes with concern that more than eight years have elapsed between the presentation of the initial petition before the Commission and the submission of this case to the Court.

## **II PROCEEDINGS BEFORE THE COURT**

5. *Notification to the State and the representatives.* The representatives of the alleged victim<sup>4</sup> (hereinafter "the representatives") and the State were notified by the Court of the submission of the case by the Commission on September 27, 2019.

6. *Brief with pleadings, motions and evidence.* On December 3, 2019, the representatives submitted their brief of requests, arguments and evidence (hereinafter "brief of requests and arguments") to the Court. The representatives agreed substantially with the Commission's arguments and asked the Court to declare the international responsibility of the State for the violation of the same articles alleged by the Commission—with the exception of Article 4 of the American Convention—and, in addition, asked the Court to declare a violation of Articles 15, 16, and 23(1) of the American Convention to the detriment of Ms. Bedoya. Furthermore, on behalf of the alleged victims, the representatives requested access to the Victims' Legal Assistance Fund of the Inter-American Court (hereinafter "the Court's Assistance Fund" or the "Fund").

7. *Answering brief.* On March 16, 2020, the State submitted to the Court its brief answering the submission of the case in the Inter-American Commission's Merits Report, and the representatives' brief with pleadings, motions and evidence (hereinafter "answering brief"). In this brief, the State disputed the violations alleged by the Commission and rejected its proposed measures of reparation.

8. *Public hearing.* In an Order of February 12, 2021,<sup>5</sup> the President summoned the State, the representatives, and the Inter-American Commission to a public hearing to receive their final oral arguments and observations on the merits and eventual reparations and costs, and receive the statements of alleged victim Ms. Bedoya Lima, one witness, and two expert witnesses offered by the representatives, as well as an expert witness proposed by the State. The public hearing was held on March 15, 22, and 23, 2020, during the 140th regular sessions of the Court, via video conference.<sup>6</sup>

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<sup>3</sup> As its delegates before the Court, the Commission chose Commissioner Francisco Eguiguren Praeli, the Executive Secretary at the time, Paulo Abrão, and the Special Rapporteur for Freedom of Expression at the time, Edison Lanza. It also designated Silvia Serrano Guzmán (then a lawyer for the Executive Secretariat) and Cecilia La Hoz Barrera (a lawyer for the Executive Secretariat) as legal advisors.

<sup>4</sup> The Fundación para la Libertad de Prensa (FLIP) and the Center for Justice and International Law (CEJIL) represented the alleged victims in the case before the Court.

<sup>5</sup> Cf. *Case of Bedoya Lima et al. v. Colombia. Call to hearing.* Order of the President of the Inter-American Court of Human Rights of February 12, 2021. Available at: [http://www.corteidh.or.cr/docs/asuntos/bedoya\\_lima\\_y\\_otra\\_12\\_02\\_21.pdf](http://www.corteidh.or.cr/docs/asuntos/bedoya_lima_y_otra_12_02_21.pdf).

<sup>6</sup> This hearing was attended by: a) on behalf of the Inter-American Commission: Antonia Urrejola Noguera, Marisol Blanchard, Jorge Meza Flores and Cecilia La Hoz; b) on behalf of the representatives: Jonathan Bock, Raissa Carrillo Villamizar and Ángela Caro Montenegro (FLIP), and Viviana Krsticevic, Gisela De León and Jessica Ramírez (CEJIL), and c) on behalf of the State of Colombia: Camilo Gómez Alzate, María Angélica Velandia Rivero, María del Pilar Gutiérrez Perilla, Susana Arango

In the framework of the hearing, the State made a partial recognition of responsibility (*infra* Chapter V).

9. *Order of President Elizabeth Odio Benito, Vice President Judge L. Patricio Pazmiño Freire, and Judges E. Raúl Zaffaroni and Ricardo Pérez Manrique and suspension of the public hearing.* On March 15, 2021, within the framework of the first day of the public hearing held in this case, the State requested the recusal of the president and of all the judges of the Court present at the public hearing, with the exception of the Judge Eduardo Vio Grossi, alleging "lack of guarantees and objectivity in this process," pointing to the "the judges' obligation to be objective and impartial," alleging "prejudgment" by the aforementioned members of the Court. Via a note from the Secretary of March 15, 2021, the State was ordered to formalize in writing what it indicated orally at the hearing, no later than Tuesday, March 16, 2021. In the note, the parties and the Inter-American Commission were informed that the Plenary of the Court had decided to suspend the aforementioned hearing until further notice and while deciding on what the State would propose in writing. In a brief dated March 16, 2021, the State indicated that it was seeking the recusal of President Judge Elizabeth Odio Benito, Vice President Judge L. Patricio Pazmiño Freire, and Judges E. Raúl Zaffaroni and Ricardo Pérez Manrique, thus "reiterating" the request for recusal initially brought against Judge Eduardo Ferrer Mac-Gregor Poisot. On March 17, 2021, the Court, comprised of Judges Eduardo Vio Grossi, acting president, and Eduardo Ferrer Mac-Gregor Poisot, ruled inadmissible the State's request for recusal of President Elizabeth Odio Benito, Vice President L. Patricio Pazmiño Freire, and Judges E. Raúl Zaffaroni and Ricardo Pérez Manrique.<sup>7</sup> Therefore, by Order of the President of March 18, 2021, it was agreed to resume the public hearing related to this case on March 22 and 23, 2021.<sup>8</sup>

10. *Provisional measures.* In the framework of the public hearing held in this case, Ms. Bedoya Lima asked the Court to adopt provisional measures for her mother, Luz Nelly Lima, and for herself. Through an Order of March 24, 2021,<sup>9</sup> the Court found a *prima facie* situation of extreme gravity and urgency, with the possibility irreparable harm to alleged victims Jineth Bedoya Lima and Luz Nelly Lima, warranting the adoption of provisional measures by the Court.<sup>10</sup>

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Haupt, and Giovanny Vega Barbosa.

<sup>7</sup> In the framework of the request for recusal, Judge Elizabeth Odio Benito and Judges Patricio Pazmiño Freire, E. Raúl Zaffaroni, and Ricardo Pérez Manrique submitted their corresponding observations, the full text of which can be accessed here: <https://www.corteidh.or.cr/observaciones.cfm> and a summary of which is included in Considering paragraphs 7 to 10 of the aforementioned Order of the Court of March 17, 2021. After analyzing the pleadings of the State and the aforementioned judges, the Court proceeded to conduct a differentiated analysis of the objections raised by the State, on the one hand with respect to the *questions* formulated by the judges whose recusal was requested and, on the other, regarding the *comments* they made over the course of the hearing. As regards the *questions* asked during the hearing held on March 15, 2021, the Court concluded that there was no "hint of partiality on the part of the challenged judges in formulating their questions," but on the contrary, "the questions asked by the judges, analyzed individually, were aimed at better clarifying the facts" (Considering 15). Regarding the comments made by the judges, the Court observed that they were made "within the bounds of respect for the Court's own standards regarding the conditions that must be met for receiving a statement or questioning an alleged victim of acts of violence or rape, with the objective that such procedures 'be conducted in a comfortable and safe environment.'" (Considering 19). Therefore, the Court dismissed the State's request in its entirety. Cf. *Case of Bedoya Lima et al. v. Colombia*. Order of the Inter-American Court of Human Rights of March 17, 2021. Available at: [http://www.corteidh.or.cr/docs/asuntos/bedoya\\_17\\_03\\_21.pdf](http://www.corteidh.or.cr/docs/asuntos/bedoya_17_03_21.pdf).

<sup>8</sup> Cf. *Case of Bedoya Lima et al. v. Colombia*. Order of the President of the Inter-American Court of Human Rights of March 18, 2021. Available at: [https://www.corteidh.or.cr/docs/asuntos/bedoyalima\\_18\\_03\\_21.pdf](https://www.corteidh.or.cr/docs/asuntos/bedoyalima_18_03_21.pdf).

<sup>9</sup> Cf. *Case of Bedoya Lima et al. v. Colombia*. Provisional measures. Adoption of Provisional Measures. Order of the Inter-American Court of Human Rights of March 24, 2021.

<sup>10</sup> Cf. *Case of Bedoya Lima et al. v. Colombia*. Provisional measures. Adoption of Provisional Measures. Order of the Inter-American Court of Human Rights of March 24, 2021, Considering 12.

11. *Amici Curiae.* – The Court received 10 *amicus curiae* briefs filed by: a) Media Defence;<sup>11</sup> b) the IFEX network;<sup>12</sup> c) the International Human Rights Practicum of Boston College Law School;<sup>13</sup> d) the Government and Justice Studies Seminar of the Universidad de La Sabana's School of Law and Political Science;<sup>14</sup> e) the Center for Reproductive Rights<sup>15</sup>; f) Corporación Sisma Mujer from Colombia;<sup>16</sup> g) Robert F. Kennedy Human Rights;<sup>17</sup> h) Strategic Advocacy for Human Rights (SAHR);<sup>18</sup> i) the Corporación Sisma Mujer, the Colectivo de Abogados "José Alvear Restrepo" (CAJAR), the Corporación Casa de la Mujer, the Consultoría de Derechos Humanos para el Desplazamiento Forzado (CODHES) and the Comisión Colombiana de Juristas, members of the Roundtable for Monitoring Cases 092 of 2008 and 009 of 2015;<sup>19</sup> and j) the Alianza Cinco Claves<sup>20</sup>

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<sup>11</sup> The brief was signed by Padraig Hughes and Carlos Gaio and addresses: (i) the context of violence against women journalists in Colombia; (ii) the special duty to protect journalists in the Colombian context; (iii) the duty to take a differentiated approach to protecting women journalists; (iv) the duty to provide protection to women journalists as they report; and (v) how sexual violence against women journalists and impunity for such acts have a chilling effect on freedom of expression.

<sup>12</sup> The brief was signed by Anni Game and addresses: (i) IFEX's experience in this area; (ii) the importance Jineth Bedoya's case as an emblematic case of impunity in attacks on women journalists; (iii) the negative effect on democracy of impunity for crimes against women journalists; and (iv) the fight against impunity as part of the duty to provide an environment favorable to freedom of expression.

<sup>13</sup> The brief was signed by Daniela Urosa and Julia Novak and addresses: (i) established case law on matters of gender equality, freedom of expression, and freedom of expression and journalists; (ii) women journalists are a particularly vulnerable group; (iii) lack of protection has led to a vicious cycle of violence and impunity; (iv) impunity and retaliatory violence encourage self-censorship, which disproportionately affects women journalists; (v) because of the *de facto* prior restraint resulting from cyclical violence and impunity, the State has a positive obligation to provide special protection to women journalists; (iv) fulfilling this obligation requires formal adoption of a gender perspective; and (v) digital violence threatens women journalists disproportionately, increasing the need for special legal protection.

<sup>14</sup> The brief was signed by Michelle Infante, María Verónica Hernández, Juana Padilla, Laura Sofía Bohórquez, Laura Kathalina Motta, and José Miguel Rueda and addresses: (i) the context of structural gender-based discrimination; (ii) the non-international armed conflict and its differentiated impact on women; (iii) the impact of structural discrimination and the armed conflict on women's freedom of expression; and (iv) comprehensive and transformative reparations with a gender perspective in cases of sexual violence within a context of structural discrimination and armed conflict.

<sup>15</sup> The brief was signed by Catalina Martínez Coral, Cristina Rosero Arteaga, Viviana Rodríguez Peña; and Carolina Patricia Trejos and addresses: (i) international standards applicable to the Colombian State regarding victims of sexual violence; (ii) the context of the armed conflict and its relationship to the human rights violations committed against Jineth Bedoya; and (iii) reparations: standards and good practices on reparations for victims of sexual violence.

<sup>16</sup> The brief was signed by Linda María Cabrera Cifuentes and Karla Roxana Pérez and addresses: (i) the State's response to sexual violence in the armed conflict, and (ii) systematic sexual violence in the Colombian armed conflict.

<sup>17</sup> The brief was signed by Angelita Baeyens, Janina Heller and Wilson Fellow and addresses: (i) the unique factors of risk facing women journalists and human rights defenders and the specific types of violence they experience; (ii) the importance of guaranteeing the protection of women journalists and human rights defenders; (iii) the relevant standards of international human rights law related to some of the rights violated in this case; (iv) the mechanisms for protecting journalists in Colombia must include a gender perspective; and (v) reparations intended to be transformative.

<sup>18</sup> The brief was signed by Natasha Latiff and addresses: (i) the nature of sexual violence in the context of the armed conflict in Colombia and in this specific case; (ii) the nature of trauma and the consequences of sexual violence, from an individual and collective approach; (iii) the State's obligations regarding sexual violence; (iv) the State's obligations to investigate, prosecute, and punish acts of sexual violence; (v) reparations for victims of sexual violence; (vi) the legal and administrative framework on reparations for victims of the armed conflict; and (vii) adequate measures of reparation: a holistic approach.

<sup>19</sup> The brief was signed by Valeria Silva Fonseca, Jomary Ortegón Osorio, María Paula Lemus P., María Alejandra Escobar C., Olga Amparo Sánchez, Marco Romero Silva, and Javier A. Galindo and addresses: (i) access to justice ("inconsistency in the procedural status of the cases," "continuation of practices that encourage impunity"); (ii) reparations ("judicial reparations," "administrative reparations"); (iii) protection ("judicial protection - Office of the Attorney General of the Nation," "National Protection Unit (UNP)"); and (iv) evaluation of the strategies implemented by the institutions ("strategies of the Attorney General of the Nation," "strategies of other entities").

<sup>20</sup> This Alliance is comprised of the following organizations: Red Nacional de Mujeres, Corporación Humanas - Centro Regional de Derechos Humanos y Justicia de Género, Colombia Diversa, Women's Link Worldwide, and Corporación Sisma Mujer.

and individuals participating in the Universidad de los Andes Law Clinic.<sup>21</sup>

12. *Final written arguments and observations.* On March 4, 2020, the representatives and the State forwarded their respective final written arguments, and the Commission presented its final written observations. The representatives forwarded a number of annexes together with the aforementioned final written arguments. On the instructions of the President of the Court, the State and the Inter-American Commission were asked to submit any considerations deemed pertinent on the attached documentation submitted by the representatives. On June 2, 2021, the State responded in this regard, and the Inter-American Commission said that it had no observations to make.

13. *Deliberation of this case.* The Court deliberated on this judgment in a virtual session on August 25 and 26, 2021.<sup>22</sup>

### III COMPETENCE

14. The Inter-American Court has jurisdiction to hear this case pursuant to Article 62(3) of the American Convention, given that Colombia has been a State party to this instrument since July 31, 1973, and accepted the contentious jurisdiction of the Court on June 21, 1985. Colombia deposited the instrument of accession to the Convention of Belém do Pará on November 15, 1995 and the instrument of accession to the Inter-American Convention to Prevent and Punish Torture on January 19, 1999.

### IV PRELIMINARY CONSIDERATIONS

15. As a preliminary matter, the **State** alleged that certain facts and allegations presented by the representatives in their pleadings and motions brief did not fall within the factual framework presented by the Commission. First, the State requested that the facts related to (i) the alleged acquiescence of public officials to the violent events that took place in the La Modelo Prison on April 27, 2000, (ii) the alleged attempted kidnapping of journalist Ignacio Gómez Gómez on May 24, 2000, as well as the subsequent actions of State agents regarding it, and (iii) the entry, exit, and security protocols for visitors to the La Modelo Prison be excluded. Second, the State asked that the arguments of the representatives regarding the (i) alleged breach of the obligation to respect as regards the facts that took place on May 25, 2000, (ii) the alleged participation of State agents in the facts involved in the threats, kidnapping, torture, and rape suffered by Ms. Bedoya, (iii) the State's alleged aggravated responsibility regarding the acts of sexual violence suffered by Ms. Bedoya, and (iv) the State's alleged responsibility for violation of the right to defend human rights also be excluded, based on the argument that they fall outside the object of the litigation.

16. The **Court** has established that the factual framework of the proceedings before it is comprised

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<sup>21</sup> The brief was signed by Mariana Ardila Trujillo, Valeria Silva Fonseca, Marcela Sánchez Buitrago, Beatriz Helena Quintero García, Adriana María Benjumea Rúa, María Fernanda Molano Giraldo, José Elías Turizo Vanegas, Lucía Baca, Paula Andrea Carvajal Mejía, Salomé Bustos Mesa, Laura Ximena Urueña Camacho, Ana María Rojas Vargas, María Susana Peralta Ramón, Juan Felipe Rivera Osorio, Angélica Cocomá Ricaurte, and Enith Bula Beleño and addresses: (i) violence due to prejudice and reproductive violence; (ii) measures of reparation ("conceptual approach," "guaranteeing comprehensive reparations," "comprehensive reparations with a gender perspective in cases of sexual violence" and "international guidelines on reparations for victims of sexual violence"); and (iii) "request: national case of sexual violence, reproductive violence, and violence based on victims' sexuality as a measure of comprehensive reparations with a gender approach."

<sup>22</sup> This judgment was deliberated and approved during the one hundred and forty-third regular sessions, which, due to the exceptional circumstances brought about by the COVID-19 pandemic, was held remotely, using technological means, as provided for by the Rules of Procedure of the Court.

of the facts contained in the Report on the Merits submitted for the consideration of the Court, and therefore, it is not admissible to raise facts other than those described therein, without prejudice to references to facts that explain, clarify, or controvert the facts mentioned in the report, or that address the claims of the applicant (also called "supplementary facts"). The exception to this principle is facts classified as supervening, which may be referred to the Court at any stage of the process before the issuance of the judgment.<sup>23</sup>

17. Regarding the State's request to exclude certain facts presented by the representatives, the Court notes that, based on the Report on the Merits submitted by the Commission to the Court,<sup>24</sup> this case involves: (i) the alleged prior threats against Ms. Bedoya, (ii) the facts that occurred on May 25, 2000, and (iii) the investigation of these facts, as well as (iv) the alleged attacks and threats against Ms. Bedoya after May 25, 2000. Consequently, all the factual questions related to these facts will be included in the analysis of this judgment. This means that (i) the alleged acquiescence of public officials to the violent events that took place in the La Modelo Prison on April 27, 2000 and (ii) the alleged attempted kidnapping of journalist Ignacio Gómez Gómez on May 24, 2000, as well as the subsequent actions of State agents regarding it, may be examined by this Court as contextual elements when addressing the facts of this case. Additionally, the Court observes that the alleged facts highlighted by the representatives regarding the visitor entry, exit, and security protocols for the La Modelo Prison are related to the facts that took place on May 25, 2000 to the detriment of Ms. Bedoya, and therefore they may also be subject to analysis by this Court.

18. Additionally, as regards the State's request to exclude certain of the representatives' arguments, the Court observes that they pertain to the facts contained in the Report on the Merits<sup>25</sup> and, furthermore, refer to the merits of the matter and to the State's alleged responsibility for the facts in this case. Consequently, the State's request to exclude these arguments must also be dismissed.

## V RECOGNITION OF INTERNATIONAL RESPONSIBILITY

### **A. *Partial recognition by the State, observations of the parties and of the Commission***

19. In the public hearing held in the instant case, the **State** "recognized its international responsibility for the failures of the judicial system, which, by collecting 12 statements from her, failed to conduct a criminal investigation respectful of the victim's dignity," asking for "forgiveness from [Ms.] Bedoya for these events and for the damage they caused her". In addition, it recognized that "these actions violated her rights to personal integrity, judicial guarantees, and judicial protection, in relation to the obligation to guarantee the rights enshrined in the American Convention on Human Rights, as well as the duty of due diligence established in Article 7(b) of the Convention of Belém do Pará".

20. The State also acknowledged its international responsibility "for the failure to comply with the duty of due diligence in the investigation of the threats against Jineth Bedoya from the moment the

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<sup>23</sup> Cf. *Case of Vera Vera et al. v. Ecuador. Preliminary Objections, Merits, Reparations and Costs*. Judgment of May 19, 2011. Series C No. 226, para. 32; and *Case of Urrutia Laubreux v. Chile. Preliminary Objections, Merits, Reparations, and Costs*. Judgment of August 27, 2020. Series C No. 409, para. 39.

<sup>24</sup> Cf. Report 150/18, Case 12.954, Jineth Bedoya Lima et al. regarding Colombia, December 7, 2018.

<sup>25</sup> See, *mutatis mutandi*, *Case of the "Five Pensioners" v. Peru. Merits, Reparations, and Costs*. Judgment of February 28, 2003. Series C No. 98, para. 155, and *Case of V.R.P., V.P.C et al. v. Nicaragua. Preliminary Objections, Merits, Reparations, and Costs*. Judgment of March 8, 2018. Series C No. 350, para. 55.

State became aware of them, and for its failure to investigate the attack on Luz Nelly Lima and Jineth Bedoya in 1999," again apologizing to Ms. Bedoya and her mother, Luz Nelly Lima. Colombia recognized that these omissions "violated their rights to dignity, a life plan, personal integrity, judicial guarantees, and judicial protection, in relation to the obligation to guarantee the rights" enshrined in the American Convention on Human Rights. Lastly, the State committed to "preventing this type of situation from recurring and expressed[ed] its willingness to implement additional measures of reparation to provide compensation for the damage caused to the victims in this case."

21. Additionally, in its final written arguments, the State reiterated the partial recognition of international responsibility made in the public hearing and accepted that "the judicial system did not conduct a proper criminal investigation for the victim by collecting 12 statements," which violated the rights of Ms. Bedoya "to personal integrity (art. 5), to judicial guarantees (art. 8) and to judicial protection (art. 25), in relation to the obligation to guarantee the rights enshrined in the American Convention on Human Rights (art. 1(1)), as well as the duty of due diligence established in article 7(b) of the Convention of Belém do Pará." The State also acknowledged its international responsibility "for the failure to comply with the duty of due diligence in the investigation of the threats against Jineth Bedoya Lima from the moment it became aware of them, and for its failure to investigate the attack on Luz Nelly Lima and Jineth Bedoya in 1999," amounting to a violation of the rights of both victims to honor and dignity (Article 11), personal integrity (Article 5), judicial guarantees (Article 8), and judicial protection (Article 25), in relation to the obligation to guarantee the rights enshrined in the American Convention on Human Rights (Article 1(1)). Lastly, the State also recognized its responsibility for the violation of articles 1, 6, and 8 of the ICPPT as a result of "lack of due diligence in the investigation of the threats against journalist Jineth Bedoya."

22. The **Commission** "took note" of the partial acknowledgment of international responsibility made by the Colombian State at the hearing and described it as "a positive contribution to the process of affirmation of the victims." However, it recalled that the recognition of international responsibility "must be comprehensive," and that a dispute persists over "essential aspects of the case," such as "the State's responsibility for the events that occurred on May 25, 2000."

23. The **representatives** described the State's recognition of international responsibility as "regrettable ... in view of the seriousness of the violations that took place in this case." They also described the recognition as "very limited" and noted that there were "multiple other violations of due process and access to justice" alleged in the framework of this case.

## **B. Considerations of the Court**

24. Pursuant to Articles 62 and 64 of the Rules of Procedure, and in exercise of its authority in relation to the international protection of human rights, a matter of international law, the Court must ensure that acts of recognition of responsibility are acceptable for the purposes pursued by the inter-American system.<sup>26</sup> The Court will now proceed to analyze the situation in this specific case.

### *b.1 Regarding the facts*

25. In the instant case, the State raised two specific issues in its partial acknowledgment, namely (i) a specific deficiency in the investigation of the facts that took place on May 25, 2000—that is, the excessive collection of 12 statements from Ms. Bedoya, and (ii) the lack of due diligence in

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<sup>26</sup> Cf. Case of Manuel Cepeda Vargas v. Colombia. Preliminary Objections, Merits, Reparations and Costs. Judgment dated May 26, 2010. Series C No. 213, para. 17; and Case of Grijalva Good v. Ecuador. Preliminary Objections, Merits, Reparations and Costs. Judgment of June 3, 2021. Series C No. 426, para. 31.

investigating the facts that took place to the detriment of Ms. Bedoya from the moment the State became aware of them, including the failure to investigate the attack on Ms. Bedoya and her mother on May 27, 1999.

26. In view of the foregoing, the Court finds that the dispute over what the State recognized has ceased. However, the dispute over other essential aspects of the case persists, such as the State's actions at the time of the facts that took place on May 25, 2000; the way in which the investigation into these facts was conducted; and the impacts of all this on Ms. Bedoya and her mother, Ms. Luz Nelly Lima.

*b.2 Regarding the legal claims*

27. Taking into account the violations recognized by the State, as well as the observations of the representatives and the Commission, the Court finds there is no longer any dispute regarding the following violations:

- a) Violation of personal integrity (Article 5), judicial guarantees (Article 8) and judicial protection (Article 25), in relation to the obligation to guarantee the rights enshrined in the American Convention on Human Rights (Article 1(1)), as well as the duty of due diligence established in Article 7(b) of the Convention of Belém do Pará, to the detriment of Ms. Bedoya with respect to the specific deficiency in the criminal investigation involving the taking of testimony from Ms. Bedoya 12 times.
- b) Violation of the rights to honor and dignity (article 11), personal integrity (article 5), judicial guarantees (article 8) and judicial protection (article 25), in relation to the obligation to guarantee the rights enshrined in the American Convention on Human Rights (Article 1(1)), to the detriment of Ms. Bedoya and her mother in relation to the lack of due diligence in the investigation of the threats that Ms. Bedoya received, as well as the failure to investigate the attack on Ms. Bedoya and her mother on May 27, 1999.
- c) Violation of articles 1, 6, and 8 of the ICPPT, to the detriment of Ms. Bedoya, as a result of lack of due diligence in the investigation of the threats against her that were brought to the attention of the State.

28. In view of the foregoing, the dispute persists with regard to the following:

- a) The State's alleged international responsibility for the facts that took place on May 25, 2000.
- b) The State's alleged international responsibility for the remaining deficiencies alleged by the Commission and the representatives in the framework of the criminal procedure related to the aforementioned facts of May 25, 2000.
- c) The alleged violation of freedom of thought and expression due to a lack of due diligence in investigating the threats against Ms. Bedoya issued before and after the events of May 25, 2000.
- d) The alleged violation of the right to defend human rights due to the lack of due diligence in investigating the threats against Ms. Bedoya issued before and after the events of May 25, 2000.
- e) The alleged violation of the personal integrity of Luz Nelly Lima due to the suffering caused as a result of the violations committed in this case to the detriment of her daughter, Ms. Bedoya.

### *b.3 Regarding the reparations*

29. Regarding the measures of reparation, the Court finds that the State argued the reparations requested by both the Commission and the representatives were inadmissible, without prejudice to the pleadings it made to adjust some of them in its final written arguments (see *infra* Chapter IX). Therefore, the dispute in this respect persists in its entirety.

### *b.4 Conclusions: assessment of partial recognition of responsibility*

30. The recognition made by the State constitutes a partial acceptance of the facts and a partial recognition of the alleged violations. It has full legal effects, pursuant to articles 62 and 64 of the Rules of Procedure of the Court, as indicated. Additionally, the Court notes that the recognition of specific facts and violations may have consequences on and impact this Court's analysis of the other alleged facts and violations, to the extent that they are all part of the same set of circumstances.<sup>27</sup>

31. In considering the violations recognized by the State and the request of the parties and the Commission, the Court does not deem it necessary to discuss the points that were the object of the recognition of responsibility, indicated in the preceding paragraphs of this section. The Court also deems it necessary to deliver a judgment in which it determines all the facts that took place based on the evidence provided in the proceedings before it and the State's recognition of them, as doing so contributes to providing victims with reparations, preventing similar facts from being repeated, and, essentially, fulfilling the purpose of the inter-American human rights jurisdiction.<sup>28</sup> The Court will also examine the origin and scope of the violations invoked by the Commission and the representatives regarding which the dispute persists. Lastly, the Court will rule on the remaining dispute regarding the reparations requested by the Commission and the representatives.

## VI EVIDENCE

### **A. Admissibility of the documentary evidence**

32. The Court received various documents presented as evidence by the Commission, the representatives, and the State, which, as in other cases, it admits in the understanding that they were presented at the appropriate procedural moment (Article 57 of the Rules of Procedure).<sup>29</sup>

33. The Court also received documents attached to the State's observations on the final lists of declarants presented by the representatives and the Inter-American Commission.<sup>30</sup> This Court notes

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<sup>27</sup> Cf. *Case of Rodríguez Vera et al. (the Disappeared from the Palace of Justice) v. Colombia. Preliminary Objections, Merits, Reparations, and Costs*. Judgment of November 14, 2014. Series C No. 287, para. 27, and *Case of Vicky Hernández et al v. Honduras. Merits, Reparations, and Costs*. Judgment of March 26, 2021. Series C No. 422, para. 23.

<sup>28</sup> Cf. *Case of Tu Tojin v. Guatemala. Merits, Reparations, and Costs*. Judgment of November 26, 2008. Series C No. 190, para. 26; and *Case of Almeida v. Argentina. Merits, Reparations, and Costs*. Judgment of November 17, 2020. Series C No. 416, para. 23.

<sup>29</sup> Documentary evidence, in general and pursuant to Article 57(2) of the Rules of Procedure, may be presented with the application brief, the pleadings and motions brief, or the answering brief, as applicable, and evidence submitted outside these procedural opportunities cannot be admitted, except in the event of the exceptions stated in the aforementioned Article 57(2) of the Rules of Procedure (namely, *force majeure*, serious impediment) or it refers to an event which occurred after the procedural moments indicated. Cf. *Case of the Barrios Family v. Venezuela. Merits, Reparations, and Costs*. Judgment of November 24, 2011. Series C No. 237, paras. 17 and 18, and *Case of Moya Solís v. Peru. Preliminary Objections, Merits, Reparations, and Costs*. Judgment of June 3, 2021. Series C No. 425, para. 34.

<sup>30</sup> The State had attached eight documents: 1) Victims' Unit, Jineth Bedoya Lima's certification in the Unified Victims Registry, February 19, 2020; 2) Curriculum vitae of Ana María Reyes, published on the Boston University website; 3) Curriculum vitae of Ana María Reyes, provided by the representatives of the alleged victims, as an annex to the brief of

that these documents were not requested by the Court, they were not presented at the proper procedural moment for receipt of documentary evidence, and they do not constitute supervening evidence, and therefore they will not be taken into account.

34. Additionally, the Court observes that along with their final written arguments, the representatives presented a series of documents as annexes and supervening evidence, some of which, as they indicated, correspond to "events that occurred subsequent to" the presentation of its brief of requests, arguments, and evidence.<sup>31</sup> In this regard, the Commission observed that Annex 1 had already been provided as Annex C29 to the brief of requests, arguments, and evidence from the representatives. It also indicated that Annex 2 and part of Annex 3 had already been submitted to the Court by the parties, as well as the part of Annexes 3 and 4 "regarding the actions taken in the framework of domestic investigations, subsequent to the presentation of the [pleadings and motions brief], and they therefore must be considered as supervening evidence." Lastly, it indicated that it had no observations on Annexes 5 to 7 corresponding to receipts of expenses incurred by the representatives of the alleged victims. The State, for its part, observed with respect to Annex 1, that "the State of Colombia was not sent the Seventh Follow-up Report to Order 092 and Second Follow-up Report to Order 009 of 2015, Reserved Annexes, August 2020 Edition. Therefore, this document is not part of the international case file." With respect to the remaining annexes, it stated that it had no observations.

35. The **Court** verifies that, indeed, the aforementioned Annexes 1 and 2 are already part of the file before this Court, since they were forwarded as annexes number C29 to the brief of requests, arguments and evidence of the representatives of the alleged victims and as part of Annex 45 to the State's answering brief, respectively. Regarding Annex 3, the Court confirms that part of it is already part of the file before this Court. Likewise, the remaining part, as well as Annex 4 in its entirety, constitute information related to events subsequent to the representatives' presentation of their brief of requests, arguments, and evidence. Lastly, the Court observes that there is no dispute with respect to Annexes 5 to 7.

36. Therefore, pursuant to the terms of article 57(2) of the Rules of Procedure, the annexes identified with numbers 3, 4, 5, 6, and 7 presented by the representatives along with their final written arguments are admitted.

#### **B. Admissibility of the testimonial and expert evidence**

37. This Court finds it pertinent to admit the statements provided by affidavit<sup>32</sup> and during the

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requests, arguments, and evidence: ANNEX N4. CV Ana María Reyes.pdf; 4) Case 12.954 - Jineth Bedoya, Colombia Public Hearing of 157th regular sessions of the Inter-American Commission on Human Rights (IACHR) Tuesday, April 5, 2016; 5) Sisma Mujer press release, "Exclusion of JJ and Panadero from the Justice and Peace Law is a triumph for Jineth Bedoya and the women victims of sexual violence," Linda María Cabrera, Deputy Director Sisma Mujer; 6) Book, *La inviolabilidad del cuerpo de las mujeres hace la paz sostenible: 5 claves para un tratamiento diferenciado de la violencia sexual en los acuerdos sobre los derechos de las víctimas en el proceso de paz*; 7) IACHR, Note on the granting of precautionary measures in favor of Jineth Bedoya Lima et al., June 2, 2000, and 8) IACHR, Case 12.954 Jineth Bedoya Lima, Note on adding the case file on precautionary measures granted in favor of Jineth Bedoya Lima to the merits process, June 6, 2017.

<sup>31</sup> These are the following documents: 1) Follow-up Roundtable on Orders 092 of 2008 and 009 of 2015. Access to Justice for Women who are Victims of Sexual Violence: Seventh follow-up report to Order 092 of 2008 and Second follow-up report to Order 009 of 2015, Reserved Annexes, up to November 2019. Bogota: Ediciones Antropos, August 2020; 2) Office of the Attorney General of the Nation. Unit on Human Rights and International Humanitarian Law. File number 807. Volume 31; 3) Office of the Attorney General of the Nation. Unit on Human Rights and International Humanitarian Law. File number 807. Volume 32; 4) Office of the Attorney General of the Nation. Unit on Human Rights and International Humanitarian Law. File number 807. Volume 33; 5) Receipts for FLIP expenses; 6) receipts for CEJIL expenses, and 7) Electronic signature formalizing Michel Forst affidavit.

<sup>32</sup> The statements made before a notary public (affidavit) were received from Luz Nelly Lima, Catalina Botero, Ignacio

public hearing<sup>33</sup> insofar as they are in keeping with the purpose defined by the President in the order requiring them and the purpose of this case.<sup>34</sup>

## **VII FACTS**

38. In this chapter, the Court will establish the facts of the case based on the factual framework submitted to it by the Inter-American Commission, the evidence in the body of evidence, and the partial recognition made by the State as regards: (i) the context in which these facts took place; (ii) the facts related to what happened on May 25, 2000 and the subsequent investigations and judicial proceedings; and (iii) the attacks and threats that Ms. Bedoya experienced and continues to experience, and the State actions carried out in this regard.

### **A. Context**

39. It is a public and well-known fact that, at the time of the facts in this case, there was an internal armed conflict in Colombia.<sup>35</sup> During that time period, for the purposes of this case, there was a context of violence directed specifically against journalists, as well as a context of sexual violence against women and, in particular, against women journalists.

#### *a.1 Context of violence against journalists at the time of the facts*

40. The Commission, the representatives, and the State all made reference to a context of violence against journalists and gender-based violence at the time of the facts. The Court has ruled on the specific "context of special risk" that journalists faced in the 1990s in the context of the internal armed conflict.<sup>36</sup> The Court highlighted in the case of *Carvajal Carvajal et al. v. Colombia* that in 1998, Colombia was considered the "the most deadly place for the press in the world."<sup>37</sup> Not surprisingly, the Special Rapporteur for Freedom of Expression in the Americas stated in 1999 that "Latin America is the most dangerous region in the world for the practice of journalism" and that "Colombia [was] the country with the largest number of journalists killed."<sup>38</sup> During the processing of the case before the Commission, the State acknowledged that, indeed, there was "a context of violence against journalists at the time of the facts comprising this case."<sup>39</sup>

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Gómez, Leonor María Paulina Rivero Dueñas, Katherine Lorena Mesa Mayorga, Hugo Alexander Tovar Pérez, Ana María Reyes, Michel Forst, Juan E. Méndez, Martha Chinchilla, Jairo Cortés, Fernando Ruiz, Caoilfhionn Gallagher QC, and Patricia Viseur Sellers.

<sup>33</sup> Statements were received from Jineth Bedoya Lima, Jorge Cardona, María del Pilar Ospina Garnica, Daniela Kravetz, and Clara Sandoval.

<sup>34</sup> The subjects of these statements are set forth in the Order of the President of the Court of February 12, 2021.

<sup>35</sup> Cf. *Case of the "Mapiripán Massacre" v. Colombia. Judgment of September 15, 2005*. Series C. No. 134, para. 196; and *Case of Yarce et al. v. Colombia. Preliminary Objections, Merits, Reparations, and Costs*. Judgment of November 22, 2016. Series C No. 325, para. 76.

<sup>36</sup> Cf. *Case of Vélez Restrepo and Family v. Colombia. Preliminary Objections, Merits, Reparations, and Costs*. Judgment of September 3, 2012. Series C No. 249, para. 84.

<sup>37</sup> Cf. *Case of Carvajal Carvajal et al. v. Colombia. Merits, Reparations, and Costs*. Judgment of March 13, 2018. Series C No. 352, paras. 26 and 167.

<sup>38</sup> Cf. Special Rapporteur for Freedom of Expression in the Americas, "Special Rapporteur for Freedom of Expression Repudiates Murder of Colombian journalist," Press Release no. 20/99, of December 8, 1999, available at:

<https://www.oas.org/en/iachr/expression/showarticle.asp?artID=9&ID=1>

<sup>39</sup> Cf. Observations on the merits by the State of Colombia, April 5, 2016 (evidence file, folio 3290).

41. During the 1990s, the different actors involved in the conflict perpetrated violence against journalists in response to their "criticism, allegations, or for reporting on sensitive issues, especially violence related to drug trafficking."<sup>40</sup> An element of the violence against journalism that is unique to Colombia—highlighted in the aforementioned judgment handed down in the case of *Carvajal Carvajal et al. v. Colombia*—was precisely the variety of actors involved in perpetrating this violence.<sup>41</sup> This array of actors was described by Ms. Bedoya during the public hearing held in this case, in which she stated as follows:

At the time of the facts between 1999 and 2000, Colombia was already in one of its worst crises due to the context of the armed conflict that it was facing. We had a well-strengthened FARC guerrilla group that had practically laid siege to cities; we had paramilitary groups, unfortunately strengthened by the protection of some State agents and that had won much territory in many parts of the country. And we also had a very significant amount of drug trafficking, which fed these two organizational structures. In the midst of this came the convergence of many aspects of criminality that were sustained by these armed structures.<sup>42</sup>

42. In this regard, the witness Jorge Cardona agreed with Ms. Bedoya's statement and indicated that the time of the facts was "a very complex moment," since "the polarization that the country was experiencing coincided with the failed peace process between the FARC and the Pastrana government and paramilitarism's transformation into a nationwide war machine."<sup>43</sup> Along with this, the cooperation taking place between this array of actors at the time of the facts in this case should be highlighted, as it took the form of a kind of collusion or joint actions between paramilitary units and State agents.<sup>44</sup>

43. Additionally, and in accordance with what this Court has found previously, this context also included a "widespread context of impunity" with respect to the murders of journalists.<sup>45</sup> Regarding impunity for attacks on journalists, this Court has already recognized that "The Colombian justice system has encountered considerable difficulty investigating the perpetrators of acts of aggression

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<sup>40</sup> Cf. Observations on the merits by the State of Colombia, April 5, 2016 (evidence file, folio 3290).

<sup>41</sup> Cf. Case of *Carvajal Carvajal et al. v. Colombia*, *supra*, para. 29.

<sup>42</sup> Cf. Statement from Jineth Bedoya Lima given at the public hearing held on March 15, 22, and 23, 2021 within the framework of the 140th regular sessions.

<sup>43</sup> Cf. Sworn statement given by Jorge Enrique Cardona Álvarez before the Office of the Attorney General of the Nation, November 1, 2011 (evidence file, folio 25). See also statement by Jorge Enrique Cardona Álvarez given during the public hearing held on March 15, 22, and 23 within the framework of the 140th regular sessions.

<sup>44</sup> Cf. 251st Prosecutor's Office Assigned to the Criminal Judges of the Specialized Circuit, assessment of the merits of the preliminary investigation, file 1, of June 12, 2018, Chapter 9.1.4. "Links to the penitentiary and prison authorities," where it is highlighted that "another factor that could allow for the formation and durability of this [criminal structure within the prison] was the actions to permit, facilitate, cooperate, and/or participate by some public servants, who, due to the roles they played and the jobs they held, used their power to ensure or facilitate the commission of criminal acts or help conceal them, and gain from them personally as a result of the significant sums paid periodically in exchange for guaranteeing their contribution to criminal offenses." Of note were irregularities such as "giving warning of searches or operations to be carried out in the prison," facilitation of "entry of weapons [...], ammunition and explosives," "failure to conduct internal investigations," receipt of "regular monetary payments," etc. (evidence file, folios 23122 and 23123). Additionally, by way of illustration, see public and well-known incidents like the statement of former paramilitary commander Salvatore Mancuso before the Truth Commission on August 4, 2021, in which Mr. Mancuso indicated the following: "I stopped being Salvatore Mancuso and the next day I became Santander Lozada, one of my aliases [...]. This is a step that gradually confirms these political and military phenomena, and one begins to make pacts, agreements, agreements with the institutions themselves. It was agreed to assign brigade, division, and battalion commanders, as well as police and DAS commanders—and even prosecutors—who were sympathetic to the cause of self-defense so that we could confront the enemy of the Colombian nation together." Cf. Hearing before the Truth Commission, of August 4, 2021, minute 1:05:05, available at: <https://www.youtube.com/watch?v=th2RL40S0pU>. See also, "Los lazos entre paramilitares y Ejército copan el encuentro de Mancuso y Timochenko," EFE, article dated August 4, 2021, available at: <https://www.efe.com/efe/america/politica/los-lazos-entre-paramilitares-y-ejercito -copan-the-meeting-of-mancuso-timochenko / 20000035-4602092>

<sup>45</sup> Cf. Case of *Carvajal Carvajal et al. v. Colombia*, *supra*, para. 170.

against journalists" and that the vast majority of cases remain unpunished.<sup>46</sup> This has had and continues to have a far-reaching impact on journalism, as supported also by what Ms. Bedoya indicated during the public hearing before this Court when she stated the following:

As for journalism, which continues in the regions, it is unfortunately self-censoring, silencing itself because reporting means losing your life, reporting means displacement, reporting means that journalists have to leave everything and become refugees somewhere else or in another city due to threats from these groups.<sup>47</sup>

44. The situation described above continues today. According to the National Center for Historical Memory, the period from 2006 to 2015 was characterized by both decreases and increases in violence against journalists: Decreases, because the number of journalists killed is clearly down compared to the previous period; but increases due to the fact that "self-censorship and other aggressive phenomena that had an impact on journalism and on local and national society increased."<sup>48</sup> Likewise, in recent years the increase in threats against journalists has been confirmed by numerous sources, such as the United Nations General Assembly, the Inter-American Commission, and multiple civil society organizations.<sup>49</sup> In this regard, witness Catalina Botero indicated that although the homicides associated with the exercise of journalism decreased during the peace process, "the figures on incidents of violence against journalists remain alarming," having increased in the last four years, contributing to the persistence of a "concerning" context of violence directed against journalists in Colombia.<sup>50</sup>

*a.2 Regarding the context of sexual violence against women during the armed conflict and, in particular, against women journalists*

45. The violence perpetrated during the armed conflict had a differentiated and aggravated affect on women by exacerbating and intensifying existing discrimination, exclusion, and gender-based violence in the country. This also had a special impact on indigenous, Afro-Colombian and "marginalized" women.<sup>51</sup> As the Constitutional Court of Colombia has recognized, women were—and are—exposed to "special risk and specific vulnerabilities within the armed conflict" due to their gender, including:

- (i) the risk of sexual violence, sexual exploitation or sexual abuse in the context of the armed conflict; (ii) the risk of exploitation or enslavement to perform domestic work and roles considered feminine in a society with patriarchal traits by illegal armed actors; (iii) the risk of forced recruitment of their sons and daughters by illegal armed actors, or of other types of threats

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<sup>46</sup> Cf. *Case of Carvajal Carvajal et al. v. Colombia, supra*, para. 34.

<sup>47</sup> Cf. Statement from Jineth Bedoya Lima given at the public hearing held on March 15, 22, and 23, 2021 within the framework of the 140th regular sessions.

<sup>48</sup> Cf. National Center for Historical Memory, report, "La Palabra y el Silencio: La violencia contra periodistas en Colombia (1977-2015)," November 2015 (evidence file, folio 11232). See also, Statement made before a notary public by Ignacio Gómez Gómez, of March 8, 2021 (evidence file, folio 39962).

<sup>49</sup> Cf. United Nations General Assembly, Situation of human rights in Colombia, Report of the United Nations High Commissioner of Human Rights, A/HRC/40/3/Add.3, of February 4, 2019, para. 25; IACtHR, Office of the Special Rapporteur for Freedom of Expression, 2018 Annual Report of the Inter-American Commission on Human Rights, OEA/SER.L/V/II Doc. 30, of March 17, 2019, para. 303, and Fundación para la Libertad de Prensa, "Alerta por incremento en el número amenazas de muerte a periodistas en Colombia," of July 11, 2018, available at: <https://flip.org.co/index.php/es/informacion/pronunciamientos/item/2252-alerta-por-incremento-en-el-numero-amenazas-de-muerte-a-periodistas-en-colombia> See also, Reporters Without Borders, "Colombia – Ataque frontal a la libertad de prensa en protestas sociales" of May 4, 2021, available here: <https://rsf.org/es/noticias/colombia-ataque-frontal-la-libertad-de-prensa-en-protestas-sociales>

<sup>50</sup> Cf. Statement made before a notary public by Catalina Botero Marino, of March 4, 2021 (evidence file, folio 39931).

<sup>51</sup> Cf. Constitutional Court of Colombia, Order 092 of 2008, of April 14, 2008 (evidence file, folio 430).

against them, which is even more serious when the woman is the head of the family; (iv) the risks derived from contact or from family or personal relationships—voluntary, accidental, or presumed—with the members of any of the illegal armed groups that operate in the country or with members of security forces, mainly due to accusations or retaliation carried out *a posteriori* by opposing illegal groups; (v) the risks derived from belonging to women's social, community or political organizations, or from their leadership and promotion of human rights in areas affected by the armed conflict; (vi) the risk of persecution and murder due to the coercive strategies to control the public and private behavior of the people who form part of the illegal armed groups in vast areas of the national territory; (vii) the risk of the murder or disappearance of their economic provider or the disintegration of their family groups and their material and social support networks; (viii) the risk of being more easily dispossessed of their lands and assets by illegal armed actors, given their historical relationship to property, especially rural land; (ix) the risks derived from the condition of discrimination and heightened vulnerability of indigenous and Afro-descendant women; and (x) the risk of loss or absence of their partner or financial provider during the displacement process [...].<sup>52</sup>

46. Regarding the risk of sexual violence, this high court has defined it as "habitual, widespread, systematic, and invisible" in the context of the Colombian armed conflict,<sup>53</sup> noting that within the framework of said conflict, such violence has been a component of the fighting and political strategies carried forth by a variety of actors, thus becoming a weapon of war.<sup>54</sup> This systematic sexual violence against women within the conflict takes various forms, including rape, sexual slavery, and forced prostitution, along with forms of violence that affect reproductive rights, such as forced birth control with intrauterine devices and forced abortions.<sup>55</sup>

47. Added to the above is the fact that violence directed against women has been influenced by a "three-pronged process of official and unofficial invisibility; silence on the part of the victims; and impunity for perpetrators,"<sup>56</sup> with it also being overshadowed by the country's other problems and

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<sup>52</sup> Cf. Constitutional Court of Colombia, Order 092 of 2008, of April 14, 2008 (evidence file, folio 430).

See also, "Access to Justice for women victims of sexual violence," Fifth Follow-up Report on order 092 of 2008 of the Constitutional Court (evidence file, folios 568 and following).

<sup>53</sup> Cf. Constitutional Court of Colombia, Order 092 of 2008, of April 14, 2008 (evidence file, folio 434); See also ECOSOC, Commission on Human Rights, Report of the Special Rapporteur on violence against women, its causes and consequences, Mission to Colombia (November 1 to 7, 2001), E/CN.4/2002/83/Add.3, March 11, 2002, para. 42.

<sup>54</sup> In this regard, the UN Special Rapporteur on Violence against Women has indicated, referring to violence against women in the context of an armed conflict, that sexual assault is "often experienced as a means of humiliating the opposition" and that "rape is used by both sides as a symbolic act." *Cfr.* UN, Commission on Human Rights, 54th period of sessions, Report of the Special Rapporteur on violence against women, its causes and consequences, Ms. Radhika Coomaraswamy, submitted in accordance with Commission resolution 1997/44, Doc. E/CN.4/1998/54, of January 26, 1998, paras. 12 and 13. Likewise, the Colombian Constitutional Court itself has also recognized that, during the armed conflict, sexual violence was used to "retaliate against women who refuse to have sexual relations with members of any of the armed actors or who resist their violence or spontaneous sexual exploitation;" as punishment for breaking the "social codes of conduct imposed *de facto* by illegal armed groups;" or to "retaliate against, repress, or silence" the activities of women human rights defenders or leaders. *Cfr.* Constitutional Court of Colombia, Order 092 of 2008, of April 14, 2008 (evidence file, folio 436). Likewise, the National Center for Historical Memory has established that sexual violence, in the context of the armed conflict, "has been part of an array of warlike and political strategies to leverage the interests of armed actors in the context of their campaigns to expand, dominate, and control territory." *Cfr.* National Center for Historical Memory, report, "La Palabra y el Silencio: La violencia contra periodistas en Colombia (1977-2015)," November 2015 (evidence file, folio 2331). See also, Report of the Special Rapporteur on violence against women, its causes and consequences, Mission to Colombia (November 1 to 7, 2001), *supra*, para. 42. Lastly, as witness Catalina Botero indicated in this regard, sexual violence in the Colombian context "was—and continues to be—used as a weapon to silence, to intimidate, and to control territory." *Cfr.* Statement made before a notary public by Catalina Botero Marino, of March 4, 2021 (evidence file, folio 39934).

<sup>55</sup> Cf. Report of the Special Rapporteur on violence against women, its causes and consequences, Mission to Colombia (November 1 to 7, 2001), *supra*, para. 56.

<sup>56</sup> Cf. Constitutional Court of Colombia, Order 092 of 2008, of April 14, 2008 (evidence file, folio 437).

phenomena.<sup>57</sup> The United Nations Special Rapporteur on violence against women, its causes and consequences visited Colombia in November 2001. Among her conclusions, she highlighted (i) the error of concluding that gender-based violence was not related to the armed conflict and, therefore, was not a matter of international law, regarding which the Rapporteur stated that they were clearly identified as human rights violations and international crimes; (ii) the lack of interest in the issue of violence against women among the parties to the armed conflict, in society, and in the media, thereby ignoring the impact on women victims, and (iii) that violence against women in Colombia is widespread and systematic, and the degree of impunity in this regard is concerning.<sup>58</sup>

48. Women journalists are no strangers to this gender-based violence. They have faced and continue to face risks specific to their profession, such as "coercion and sexual harassment, intimidation, abuse of power and threats" as well as "violence and sexual harassment" in the context of doing their jobs.<sup>59</sup> The Inter-American Commission and the Office of the Special Rapporteur for Freedom of Expression have recognized that the risk faced by women journalists working in conflict zones is "two-fold risk for exercising journalism in situations of significant conflict or violence and in contexts that reinforce gender subordination."<sup>60</sup> Furthermore, as the expert Daniela Kravetz pointed out in the public hearing:

The risks and manifestations of violence faced by women journalists are often different from those experienced by men in the sense that women are more exposed to gender-based violence—for example, gender-based murders, sexual violence, harassment, abuse of power. Additionally, the motives behind it can be different, as journalism is a very public role and very visible in a society. Thus, exercising this profession as a woman in certain contexts can be seen as a violation of the prevailing stereotypes of what the role of women should be in that context. This can lead to acts of aggression against them.<sup>61</sup>

49. Additionally, in its answering brief, the State acknowledged the existence of an armed conflict at the time of the events that caused women and journalists to have "difficulties in freely exercising their rights domestically."<sup>62</sup> In its final written arguments, it indicated that the aforementioned armed conflict "hampered the free and comprehensive exercise of the rights of women who perform journalistic activities in Colombia."<sup>63</sup> Thus, while women journalists face the same risks as their male colleagues when investigating corruption, organized crime, and human rights violations, they also face specific risks due to being women, risks that also intersect with other factors of vulnerability such as race, class, sexual orientation and ethnic origin, among others.<sup>64</sup>

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<sup>57</sup> Cf. Report of the Special Rapporteur on violence against women, its causes and consequences, Mission to Colombia (November 1 to 7, 2001), *supra*, para. 42.

<sup>58</sup> Cf. Report of the Special Rapporteur on violence against women, its causes and consequences, Mission to Colombia (November 1 to 7, 2001), *supra*, para. 103.

<sup>59</sup> Cf. IACtHR, Women Journalists and Freedom of Expression: Discrimination and Gender-Based Violence Faced by Women Journalist in the Exercise of their Profession, OEA/SER.L/V/II CIDH/RELE/INF.20/18, October 31, 2018, para. 39.

<sup>60</sup> Cf. IACtHR, Women Journalists and Freedom of Expression: Discrimination and Gender-Based Violence Faced by Women Journalists in the Exercise of their Profession, *supra*, para. 103; IACtHR, Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights. "Violence against Journalists and Media Workers: Inter-American Standards and National Practices on Prevention, Protection and Prosecution of Perpetrators," OEA/Ser.L/V/II, CIDH/RELE/INF.12/13, December 31, 2013, para. 263.

<sup>61</sup> Cf. Expert opinion from Daniela Kravetz given at the public hearing held on March 15, 22, and 23, 2021 within the framework of the 140th regular sessions.

<sup>62</sup> Cf. Response of the State of March 16, 2020 (merits file, folio 500).

<sup>63</sup> Cf. Final arguments brief presented by the State of April 23, 2021 (merits file, folio 1496).

<sup>64</sup> IACtHR, Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights. "Women Journalists and Freedom of Expression. Discrimination and Gender-Based Violence Faced by Women Journalists in the Exercise of their Profession, OEA/SER.L/V/II CIDH/RELE/INF.20/18, October 31, 2018, para. 12.

50. As the United Nations Special Rapporteur on violence against women, its causes and consequences pointed out in a recent report of May 2020, violence against women journalists "mirror[s] larger patterns of sexism and gender-based violence that seek not only to punish women for voicing critical or dissenting opinions, but also for speaking out as women."<sup>65</sup> In this regard, it is worth highlighting what was stated by experts Daniela Kravetz and Patricia Viseur Sellers, who agreed that acts of violence against women journalists are not isolated incidents, but rather such gender-based violence is symptomatic of a pattern of structural discrimination against women rooted in stereotypes of female inferiority.<sup>66</sup>

51. Added to this is the systematic impunity that exists for this type of crime and the discriminatory treatment when it comes to dealing with it, which contributes to a lack of trust by women journalists in State institutions and causes an "under-count of cases," as stated by Ms. Bedoya during the public hearing.<sup>67</sup> Ms. Bedoya also indicated that according to a recent study carried out by the organization "No es hora de callar"—an organization she leads and that is focused on documenting cases of gender-based violence in general and violence directed against women journalists in particular—"6 out of 10 women journalists in Colombia have suffered harassment, and right now they face persecution and stigmatization," and "8 out of 10 women journalists in Colombia choose to self-censor or abandon their sources and their work to avoid becoming the victims of violence."<sup>68</sup> All this causes women journalists to rethink their professions, and they often end up leaving it, or even if they want to pursue it, they persist in the belief that journalism is not an "appropriate" profession for women.<sup>69</sup>

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<sup>65</sup> Cf. United Nations, Human Rights Council, "Combating violence against women journalists," Report of the Special Rapporteur on violence against women, its causes and consequences, A/HRC/44/52, May 6, 2020, para. 33.

<sup>66</sup> Cf. Expert opinion given at a public hearing and forwarded in writing by Daniela Kravetz (merits file, folios 1103, 1104, and 1109), and Expert opinion given by affidavit by Patricia Viseur Sellers (evidence file, folio 40138).

<sup>67</sup> Ms. Bedoya stated as follows:

And the under-count of cases of women journalists who have had to face sexual violence in all its forms—harassment, intimidation, physical violence itself, and stigmatization, which I think is one of the most difficult and least accounted-for parts, because when a woman communicates, speaks up, and reports, the first reaction is to stigmatize her, it is to treat her like a nobody, to treat her as (I am not going to use the words here, you already know what I mean), how women are pigeonholed because they are women. And at that time, there were many cases and there were many cases that were covered up, situations of fellow female journalists, who had to face things similar to those that happened to me. [...] Today the harassment is suffered by many of my journalist colleagues over social media, but also through emails and calls, where their own sources intimidate and classify and pigeonhole them and stigmatize them in order to delegitimize their reporting and their words. It's constant.

*Cfr.* Statement from Jineth Bedoya Lima given at the public hearing held on March 15, 22, and 23, 2021 within the framework of the 140th regular sessions.

<sup>68</sup> Cf. Statement from Jineth Bedoya Lima given at the public hearing held on March 15, 22, and 23, 2021 within the framework of the 140th regular sessions. Specifically, Ms. Bedoya indicated that these figures date "to 2011, since 2009 I have led the organization No es Hora de Callar, which is focused on documenting cases of gender-based violence, both general gender-based violence and stigmatization and violence against women journalists."

<sup>69</sup> Cf. IACtHR, Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights. "Women Journalists and Freedom of Expression. Discrimination and Gender-Based Violence Faced by Women Journalists in the Exercise of their Profession," *supra*, para. 16. Also see, United Nations Plan of Action on the Safety of Journalists and the Issue of Impunity, Report of the Secretary-General, A/72/290, August 4, 2017, para. 6. Likewise, Ms. Bedoya indicated that, currently, "the perception still persists that journalism is not an 'appropriate' profession for women, leading to significant social pressure on them to not enter the profession or to leave it." Cf. Statement from Jineth Bedoya Lima given at the public hearing held on March 15, 22, and 23, 2021 within the framework of the 140th regular sessions.

*a.3 Regarding Ms. Jineth Bedoya Lima and the prior threats she experienced while exercising her profession*

52. Ms. Jineth Bedoya Lima was born in the city of Bogotá, Colombia, on October 21, 1975.<sup>70</sup> She is a renowned journalist and human rights defender.<sup>71</sup> She began her career in 1995 and has worked since then in a variety of radio, print, and television media outlets in Colombia, focusing on covering the armed conflict there.<sup>72</sup> In 2010, she founded—and currently leads—the “No es hora de callar” campaign, focused mainly on raising awareness and fighting gender-based violence in general, as well as sexual violence against women specifically.<sup>73</sup> As of the issuance of this judgment, Ms. Bedoya is deputy editor of the newspaper *El Tiempo*.<sup>74</sup>

53. Since the beginning of her career as a journalist, Ms. Bedoya has been the victim of threats and acts of harassment, especially in connection with her work covering the internal armed conflict and her reporting on prisons in 1998, first on radio station *RCN Radio* and, later, in the newspaper *El Espectador*.<sup>75</sup> With the newspaper, she once again began reporting on the La Modelo Prison, and, in particular, the “arms trafficking and purchase and sale of kidnapped persons, as well as other human rights violations” being committed there.<sup>76</sup> Between 1999 and 2000, she published more than 50 articles on human rights violations committed by armed groups within the prison with the “complicity of State agents,” as documented by Ms. Bedoya.<sup>77</sup> During that time, the journalist was

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<sup>70</sup> Cf. Civil Registry Birth Certificate of Jineth Bedoya Lima (evidence file, folio 10057).

<sup>71</sup> The awards received by Jineth Bedoya Lima include the following: Courage in Journalism Award (New York 2001); International Press Freedom Award, for her coverage of Colombian prisons (Toronto, Canada 2000); International Women of Courage Award (Washington DC, 2012); Simón Bolívar Prize for Journalism (Colombia 2001, 2012); the Pirineos Sur Award (Aragon, Spain); Alfonso López Michelsen National Award for Communication and Journalism (2014), and the Anna Politkovskaya Award (2017).

<sup>72</sup> Cf. Expansion of statement of Jineth Bedoya Lima, of May 22, 2003 (evidence file, folio 333). In addition, Ms. Bedoya is the author of the following books: *Los Patios del Infierno* (2002), *Diario de un Combate* (2005); *En Las Trincheras del Plan Patriota* (2008); *La Pirámide de David Murcia* (2009); *Te hablo desde la prisión* (2010); *Vida y muerte del 'Mono Jojoy'* (2010); *Blanco neutralizado* (2013); *Las batallas de Jineth Bedoya* (2014). Also see statement from Jineth Bedoya Lima given at the public hearing held on March 15, 22, and 23, 2021 within the framework of the 140th regular sessions.

<sup>73</sup> Cf. “No es hora de callar” campaign, available at:

<https://www.youtube.com/watch?v=Xp5O6ScObA8> Also see OXFAM. “Jineth Bedoya, periodista y activista colombiana: No es Hora de Callar,” March 25, 2014, available at: <https://www.otromundoesposible.net/jineth-bedoya-periodista-y-activista-colombiana-no-es-hora-decallar/>.

<sup>74</sup> Cf. Statement from Jineth Bedoya Lima given at the public hearing held on March 15, 22, and 23, 2021 within the framework of the 140th regular sessions. See also *El Tiempo*, “Jineth Bedoya, una periodista crítica, terca y apasionada,” article dated February 9, 2016, available at: <https://www.eltiempo.com/archivo/documento/CMS-16505480>

<sup>75</sup> Cf. Sworn statement made by Jorge Enrique Cardona Álvarez before the Office of the Attorney General of the Nation, on November 1, 2011, in which Mr. Cardona expressly states that he invited Ms. Bedoya to work at *El Espectador* “as a result of a series of threats that she received at work in connection with her reporting on prisons,” and because of “the fact that it helped her with her need to change jobs after she received a series of threatening phone calls

and a package was left at the radio station containing a dead animal” toward the end of 1998” (evidence file, folio 15). See also, statement made before a notary public by Luz Nelly Lima, of March 6, 2021 (evidence file, folio 39916), and statement by Jorge Enrique Cardona Álvarez given during the public hearing held on March 15, 22, and 23 within the framework of the 140th regular sessions.

<sup>76</sup> Cf. Statement from Jineth Bedoya Lima given at the public hearing held on March 15, 22, and 23, 2021 within the framework of the 140th regular sessions.

<sup>77</sup> Cf. Statement from Jineth Bedoya Lima given at the public hearing held on March 15, 22, and 23, 2021 within the framework of the 140th regular sessions, in which she stated the following:

The reporting began at the end of 1997. Initially, I did it from the station where I worked—RCN Radio—and later, when I started working with *El Espectador*, we began to publish articles on the human rights violations committed by the armed groups inside the prison, unfortunately with the complicity of State agents, meaning members of the army and especially the police. More than 50 articles were published between 1999 and 2000.

subjected to threats, in the framework of which, on May 27, 1999, she was the victim of an attack in which her mother, Luz Nelly Lima, was injured and had to be hospitalized.<sup>78</sup> The attack was reported to the authorities but, as indicated by Ms. Bedoya and not disputed by the State, these facts were never investigated, despite the fact that she filed a complaint with the Police and with the Administrative Security Department (hereinafter "DAS").<sup>79</sup>

54. On August 25, 1999, she was "provisionally" assigned protection.<sup>80</sup> Specifically, the Director of Protection of the DAS sent a written communication to Ms. Bedoya in which he informed her that the technical risk assessment carried out by the DAS's Protection Committee found "indications of vulnerability to her freedom, her life, and her personal integrity."<sup>81</sup> On November 20, 1999, Ms. Bedoya sent a communication to the Director of Protection of the DAS in which she informed him that, "due to the recommencement of threats against [her] life," she had decided to accept the aforementioned protection scheme offered.<sup>82</sup> On November 24, 1999, the Coordinator of the Protection Area of the General Office of the Special Administrative Unit for Human Rights—under the Ministry of Interior Affairs—sent a communication to Ms. Bedoya informing her that "her case is not within the target population of the Protection Program" of that ministry, suggesting that she contact the "State security agencies."<sup>83</sup> While she continued doing her journalism work and frequently went to the La Modelo Prison to secure information on "issues concerning the prison, public order, and the peace process," the journalist continued to be the target of threats and surveillance.<sup>84</sup>

#### **B. Facts that took place on May 25, 2000**

55. On April 27, 2000, there was a clash between paramilitaries and members of common criminal gangs inside the La Modelo Prison, which ended with the deaths of 32 inmates.<sup>85</sup> Ms. Bedoya, along with other journalists, systematically reported the events. Specifically, she investigated allegations regarding the role of the paramilitaries in the acts of violence, as well as about the actions of the security forces, publishing the corresponding newspaper articles.<sup>86</sup> As a result of this, she and her

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<sup>78</sup> Cf. Statement from Jineth Bedoya Lima given at the public hearing held on March 15, 22, and 23, 2021 within the framework of the 140th regular sessions, and Statement made before a notary public by Luz Nelly Lima, of March 6, 2021 (evidence file, folio 39917). Also see Complaint filed by Jorge Enrique Cardona Álvarez before the Office of the Attorney General of the Nation, May 26, 2000 (evidence file, folio 92); Sworn statement given by Jorge Enrique Cardona Álvarez before the Office of the Attorney General of the Nation, November 1, 2011 (evidence file, folio 16).

<sup>79</sup> Cf. Statement from Jineth Bedoya Lima given at the public hearing held on March 15, 22, and 23, 2021 within the framework of the 140th regular sessions. This was also corroborated by Ms. Luz Nelly Lima. Cf. Statement made before a notary public by Luz Nelly Lima, of March 6, 2021 (evidence file, folio 39918).

<sup>80</sup> Cf. Communication from the Administrative Security Department [DAS], of August 25, 1999 (evidence file, folio 95).

<sup>81</sup> Cf. Communication from the Administrative Security Department [DAS], of August 25, 1999 (evidence file, folio 95).

<sup>82</sup> Cf. Communication from Ms. Bedoya to Colonel J.D.G.P., Director of Protection of the DAS, of September 20, 1999 (evidence file, folio 97).

<sup>83</sup> Cf. Official Letter from the Coordinator of the Protection Area, General Office of the Special Administrative Unit for Human Rights, Ministry of Interior Affairs, November 24, 1999 (evidence file, folio 99). See also statement by Jorge Enrique Cardona Álvarez given during the public hearing held on March 15, 22, and 23 within the framework of the 140th regular sessions.

<sup>84</sup> Cf. Sworn statement given by Jorge Enrique Cardona Álvarez before the Office of the Attorney General of the Nation, November 1, 2011 (evidence file, folio 16).

<sup>85</sup> Cf. Statement from Jineth Bedoya Lima given at the public hearing held on March 15, 22, and 23, 2021 within the framework of the 140th regular sessions. Also see Complaint filed by Jorge Enrique Cardona Álvarez before the Office of the Attorney General of the Nation, May 26, 2000 (evidence file, folio 92); and sworn statement given by Jorge Enrique Cardona Álvarez before the Office of the Attorney General of the Nation, November 1, 2011 (evidence file, folio 16).

<sup>86</sup> Cf. Expansion of statement made by Jineth Bedoya Lima before the Office of the Attorney General of the Nation, May 30, 2000 (evidence file, folio 105); Complaint filed by Jorge Enrique Cardona Álvarez before the Office of the Attorney General of the Nation, May 26, 2000 (evidence file, folio 92); Sworn statement given by Jorge Enrique Cardona Álvarez before the Office of the Attorney General of the Nation, November 1, 2011 (evidence file, folio 16).

colleagues from *El Espectador* received multiple threats,<sup>87</sup> which were reported to the National Police.<sup>88</sup> On May 7, 2000, when Ms. Bedoya made a visit to the La Modelo Prison in order to do more reporting into what happened the previous week, they told her that she had to leave the prison immediately or "they would kill her."<sup>89</sup> The next day, a newspaper messenger told her that he had a brother in that prison who warned her not to go back to prison "because they were going to kill her"<sup>90</sup> and that she had "two days to live."<sup>91</sup>

56. A day later, several envelopes containing threats<sup>92</sup> and photocopies of some of the articles published on the aforementioned acts of violence that took place in the prison on April 27, 2000 appeared in the mailboxes of several journalists from the newspaper, including that of Ms. Bedoya<sup>93</sup>. Following these incidents, the director of the newspaper and several journalists held a meeting with the Police.<sup>94</sup> Ms. Bedoya also participated in that meeting.<sup>95</sup> According to what they were able to ascertain through a newspaper messenger who had a brother being held in the paramilitary yard, the paramilitaries were "very upset" with the newspaper's articles and ordered them not stop publishing them.<sup>96</sup> In view of the foregoing, it was agreed to use that same messenger to respond to the paramilitaries and inform them that Ms. Bedoya was willing to dialogue with them and clarify any misunderstandings, all with the "acquiescence" of the Police, as indicated Mr. Cardona<sup>97</sup> and Ms. Bedoya herself.<sup>98</sup>

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<sup>87</sup> Cf. Expansion of statement made by Jineth Bedoya Lima before the Office of the Attorney General of the Nation, June 8, 2000 (evidence file, folio 83); Cf. Complaint filed by Jorge Enrique Cardona Álzate before the Office of the Attorney General of the Nation, May 26, 2000 (evidence file, folio 92); Expansion of statement of Jineth Bedoya Lima, June 15, 2000 (evidence file, folio 161).

<sup>88</sup> Cf. Expansion of statement made by Jineth Bedoya Lima before the Office of the Attorney General of the Nation, June 8, 2000 (evidence file, folio 83), where Ms. Bedoya states that in the days prior to the events that occurred on May 25, 2000, "we received a visit from the officials commanded by Colonel N. and they did the security assessment and agreed to investigate."

<sup>89</sup> Cf. Complaint filed by Jorge Enrique Cardona Álzate before the Office of the Attorney General of the Nation, May 26, 2000 (evidence file, folio 92).

<sup>90</sup> Cf. Complaint filed by Jorge Enrique Cardona Álzate before the Office of the Attorney General of the Nation, May 26, 2000 (evidence file, folio 92); and Fifth Criminal Court of the Bogotá Specialized Circuit, Judgment of February 24, 2016 (evidence file, folio 24052).

<sup>91</sup> Cf. Statement from Jineth Bedoya Lima given at the public hearing held on March 15, 22, and 23, 2021 within the framework of the 140th regular sessions.

<sup>92</sup> Cf. Complaint filed by Jorge Enrique Cardona Álzate before the Office of the Attorney General of the Nation, May 26, 2000 (evidence file, folio 92); Sworn statement given by Jorge Enrique Cardona Álzate before the Office of the Attorney General of the Nation, November 1, 2011 (evidence file, folio 16).

<sup>93</sup> Four small envelopes were received, addressed to Ms. Bedoya and to Ignacio Gómez, Julián Ríos and Jorge Cardona Alzate (Cf. Complaint filed by Jorge Enrique Cardona Álzate before the Office of the Attorney General of the Nation, May 26, 2000 (evidence file, folio 92). Also see sworn statement of Jineth Bedoya Lima, November 26, 2011 (evidence file, folio 804), and Statement made before a notary public by Ignacio Gómez Gómez, of March 8, 2021 (evidence file, folio 3995).

<sup>94</sup> Cf. Sworn statement given by Jorge Enrique Cardona Álzate before the Office of the Attorney General of the Nation, November 1, 2011 (evidence file, folio 17).

<sup>95</sup> Cf. Sworn statement given by Jorge Enrique Cardona Álzate before the Office of the Attorney General of the Nation, November 1, 2011 (evidence file, folio 17).

Sworn statement given by Jorge Enrique Cardona Álzate before the Office of the Attorney General of the Nation, November 1, 2011 (evidence file, folio 16).

<sup>96</sup> Cf. Sworn statement given by Jorge Enrique Cardona Álzate before the Office of the Attorney General of the Nation, November 1, 2011 (evidence file, folio 17).

<sup>97</sup> Cf. Sworn statement given by Jorge Enrique Cardona Álzate before the Office of the Attorney General of the Nation, November 1, 2011 (evidence file, folio 17).

<sup>98</sup> Cf. Statement from Jineth Bedoya Lima given at the public hearing held on March 15, 22, and 23, 2021 within the framework of the 140th regular sessions, and Sworn statement of Jineth Bedoya Lima, November 26, 2011 (evidence file, folio 804).

57. On the night of Wednesday, May 24, 2000, Ms. Bedoya received a call from an individual who called himself "Ramiro," who informed her that a person held in the La Modelo Prison, known as "El Panadero," wanted to meet with her the next day at 10:00 am at the prison, on the condition that "I publish everything [he] tells [me]."<sup>99</sup> "Ramiro" assured the journalist that the prison director at the time was aware of the interview and that he had already authorized her entry at the appointed time. Ms. Bedoya informed her mother, her boss—Jorge Enrique Cardona Álvarez—the newspaper's photo editor, and two other colleagues about this visit.<sup>100</sup>

58. On May 25, 2000, the journalist attended the meeting, accompanied by the newspaper's courts editor, Jorge Cardona, a photographer, and the driver of the vehicle.<sup>101</sup> They parked the vehicle two blocks from the jail, out of sight of the prison.<sup>102</sup> The photographer and the driver waited in the vehicle, while Ms. Bedoya and Mr. Cardona went to the main entrance of the prison. When they arrived at the prison door, they were met by a guard who, at first, told them that he did not have a permit in Ms. Bedoya's name, but that "he knew about her visit"<sup>103</sup> and "they were already processing the permits," although only Ms. Bedoya could enter with the photographer.<sup>104</sup> While they waited to secure the permit, Mr. Cardona remained seated on a wooden bench located in a cafeteria across from the jail to avoid them being seen together.<sup>105</sup> After about ten minutes, Ms. Bedoya asked again. The guard told her to wait because "the permit was coming." At that moment, Ms. Bedoya went to Mr. Cardona and asked him to go to the vehicle to get the photographer.<sup>106</sup>

59. At that moment, according to the body of evidence, when Ms. Bedoya was across from the La Modelo Prison, she was approached by a woman who asked her if she was "the journalist."<sup>107</sup> At the same time, a man approached her and asked her if she was the one who was going to the interview with "El Panadero." When she answered affirmatively, the man seized her by the elbow and

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<sup>99</sup> Cf. Expansion of statement made by Jineth Bedoya Lima before the Office of the Attorney General of the Nation, June 8, 2000 (evidence file, folio 83).

<sup>100</sup> Cf. Expansion of statement made by Jineth Bedoya Lima before the Office of the Attorney General of the Nation, June 8, 2000 (evidence file, folio 83); Sworn statement given by Jorge Enrique Cardona Álvarez before the Office of the Attorney General of the Nation, November 1, 2011 (evidence file, folio 17); Sworn statement of Jineth Bedoya Lima, November 26, 2011 (evidence file, folio 803); and Statement by Jorge Enrique Cardona Álvarez given during the public hearing held on March 15, 22, and 23 within the framework of the 140th regular sessions.

<sup>101</sup> Cf. Expansion of statement made by Jineth Bedoya Lima before the Office of the Attorney General of the Nation, June 8, 2000 (evidence file, folio 83). See also, Expansion of statement made by Jineth Bedoya Lima before the Office of the Attorney General of the Nation, May 30, 2000 (evidence file, folio 101); Sworn statement given by Jorge Enrique Cardona Álvarez before the Office of the Attorney General of the Nation, November 1, 2011 (evidence file, folio 19); and Statement from Jineth Bedoya Lima given at the public hearing held on March 15, 22, and 23 within the framework of the 140th regular sessions.

<sup>102</sup> Cf. Sworn statement given by Jorge Enrique Cardona Álvarez before the Office of the Attorney General of the Nation, November 1, 2011 (evidence file, folio 19).

<sup>103</sup> Cf. Expansion of statement of Jineth Bedoya Lima, August 28, 2007 (evidence file, folio 405).

<sup>104</sup> Cf. Sworn statement given by Jorge Enrique Cardona Álvarez before the Office of the Attorney General of the Nation, November 1, 2011 (evidence file, folio 19); and Sworn statement of Jineth Bedoya Lima, November 26, 2011 (evidence file, folio 802).

<sup>105</sup> Cf. Complaint filed by Jorge Enrique Cardona Álvarez before the Office of the Attorney General of the Nation, May 26, 2000 (evidence file, folio 91); and Sworn statement given by Jorge Enrique Cardona Álvarez before the Office of the Attorney General of the Nation, November 1, 2011 (evidence file, folios 19, 22, and 23).

<sup>106</sup> Cf. Expansion of statement made by Jineth Bedoya Lima before the Office of the Attorney General of the Nation, May 30, 2000 (evidence file, folio 101); Complaint filed by Jorge Enrique Cardona Álvarez before the Office of the Attorney General of the Nation, May 26, 2000 (evidence file, folio 91); Cf. Sworn statement given by Jorge Enrique Cardona Álvarez before the Office of the Attorney General of the Nation, November 1, 2011 (evidence file, folio 19); Sworn statement of Jineth Bedoya Lima, November 26, 2011 (evidence file, folio 802).

<sup>107</sup> Cf. Expansion of statement made by Jineth Bedoya Lima before the Office of the Attorney General of the Nation, May 30, 2000 (evidence file, folio 101); and Statement from Jineth Bedoya Lima given at the public hearing held on March 15, 22, and 23, 2021 within the framework of the 140th regular sessions.

threatened her with a gun, telling her that if she screamed, he would kill the people who had come with her. He took her to a storage building near the jail, where two more men were waiting.<sup>108</sup> Upon arrival, they blindfolded her, beat her, insulted her, attacked her, tied her hands, and sat her on a chair. After a while, the men told her that they were going to go "for a little outing." The journalist continued to ask them who had sent them and one of them told her that "they had been sent to clean up all the bullshit from the media."<sup>109</sup>

60. Subsequently, they put her roughly into a vehicle, replaced the blindfold with tape over her eyes and mouth, and continued to beat her. After a while, the vehicle stopped and the men removed the tape. Ms. Bedoya then noticed there were more people because "many voices were heard."<sup>110</sup> In this regard, Ms. Bedoya indicated the involvement of "uniformed men" who participated in her kidnapping.<sup>111</sup>

61. After tying her up again, several men raped her.<sup>112</sup> In the midst of these acts of violence, one of the kidnappers told her, while pointing a gun at her, "piece of shit journalists who have fucked up this country, it's your fault the country is like this," saying the journalists were "paid by the guerrillas"<sup>113</sup> and that they were going to "teach them a lesson so they quit fucking around and destroying the country."<sup>114</sup> They accused her of going to La Modelo Prison to "give the guerrillas media attention."<sup>115</sup> Later, they took her cell phone and, threatening her again with a pistol, made her unlock it. After several hours, after sunset, one of the kidnappers told Ms. Bedoya that the "outing" was over. She closed her eyes hoping they would kill her.<sup>116</sup> They took her wallet and some papers that she had in her purse, they taped the papers to her chest and flung her on the side of a road in Villavicencio.<sup>117</sup> In total, Ms. Bedoya had been held for approximately 10 hours.<sup>118</sup>

62. Ms. Bedoya was unable to move for a time, until a taxi driver stopped to help her and took her to a Rapid Response Station (Comando de Atención Inmediata, "CAI"), belonging to the National Police. Members of the Bureau of Criminal Investigation and Interpol (hereinafter "DIJIN") arrived

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<sup>108</sup> Cf. Expansion of statement made by Jineth Bedoya Lima before the Office of the Attorney General of the Nation, June 8, 2000 (evidence file, folio 84). Also see Expansion of statement made by Jineth Bedoya Lima before the Office of the Attorney General of the Nation, May 30, 2000 (evidence file, folio 102); and Fifth Criminal Court of the Bogotá Specialized Circuit, Judgment of February 24, 2016 (evidence file, folio 24054).

<sup>109</sup> Cf. Expansion of statement made by Jineth Bedoya Lima before the Office of the Attorney General of the Nation, May 30, 2000 (evidence file, folio 102).

<sup>110</sup> Cf. Expansion of statement made by Jineth Bedoya Lima before the Office of the Attorney General of the Nation, May 30, 2000 (evidence file, folio 102).

<sup>111</sup> Cf. Statement from Jineth Bedoya Lima given at the public hearing held on March 15, 22, and 23, 2021 within the framework of the 140th regular sessions.

<sup>112</sup> Cf. Expansion of statement made by Jineth Bedoya Lima before the Office of the Attorney General of the Nation, May 30, 2000 (evidence file, folio 103); statement from Jineth Bedoya Lima given at the public hearing held on March 15, 22, and 23, 2021 within the framework of the 140th regular sessions, in which Ms. Bedoya described the rape as a "gang rape" after having faced "all manner of abuse" and "torture."

<sup>113</sup> Cf. Expansion of statement made by Jineth Bedoya Lima before the Office of the Attorney General of the Nation, May 30, 2000 (evidence file, folio 101).

<sup>114</sup> Cf. Expansion of statement made by Jineth Bedoya Lima before the Office of the Attorney General of the Nation, May 30, 2000 (evidence file, folio 104).

<sup>115</sup> *Idem.*

<sup>116</sup> Cf. Expansion of statement made by Jineth Bedoya Lima before the Office of the Attorney General of the Nation, May 30, 2000 (evidence file, folios 104 and 105); Sworn statement of Jineth Bedoya Lima, November 26, 2011 (evidence file, folio 804).

<sup>117</sup> Cf. Expansion of statement made by Jineth Bedoya Lima before the Office of the Attorney General of the Nation, May 30, 2000 (evidence file, folios 104 and 105).

<sup>118</sup> Cf. Fifth Criminal Court of the Bogotá Specialized Circuit, Judgment of February 24, 2016 (evidence file, folio 24050).

and took her to the Central Hospital of the National Police.<sup>119</sup> There they performed a forensic medicine exam and put her in contact with an army commander, who told her he "was going to send a helicopter" and that they were not "going to leave her alone."<sup>120</sup> Later, two colonels arrived. Ms. Bedoya asked them to take her to Bogotá with them, but this request was denied because the Director of the Police had given the order that the police be in charge of transporting her to Bogotá.<sup>121</sup> According to Ms. Bedoya, a military commander told her that there had been an "internal dispute because the police wanted to show [her] off as a person rescued by them."<sup>122</sup> The next day, she was transported to Bogotá and admitted to the Police Clinic, where the Director of the Police and the Minister of Defense visited her.<sup>123</sup> She was under medical observation for four days, during which time she underwent a series of medical examinations, including a gynecological examination, sampling of bodily fluids, and blood, urine, and toxicological tests.<sup>124</sup> The samples taken were taken for analysis to the Institute of Forensic Medicine.<sup>125</sup>

63. Parallel to the kidnapping of Ms. Bedoya, the members of the newspaper team that had accompanied her assumed she had entered the penitentiary therefore remained nearby, waiting for her.<sup>126</sup> Mr. Cardona asked several times at the prison gate if Ms. Bedoya had entered the prison, to which the guards answered that they could not give that information.<sup>127</sup> At about two in the afternoon, the journalist asked the photographer to return to the newspaper and inform the editors of the "Police" and "Prosecutor" sections that he needed them at the prison, since "something strange was happening with Jineth."<sup>128</sup> The editors came and waited with Mr. Cardona, hoping that Ms. Bedoya would come out. At 6pm, Mr. Cardona notified the Office of the Public Prosecutor and the Police and reported what had happened. The Technical Investigation Corps (hereinafter "CTI"), a body under the Office of the Attorney General of the Nation, tracked Ms. Bedoya's cell phone and found that at around 5pm, she was located in Villavicencio and, half an hour later, in a "rural area fought over by the guerrillas and the paramilitaries."<sup>129</sup> At the same time, several journalists from the newspaper, accompanied by the Prosecutor's Office Section Director and an official from the CTI, entered the La Modelo Prison to search for Ms. Bedoya, verifying with the prison director that she

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<sup>119</sup> Cf. Expansion of statement made by Jineth Bedoya Lima before the Office of the Attorney General of the Nation, May 30, 2000 (evidence file, folio 105); Sworn statement of Ms. Jineth Bedoya Lima, November 26, 2011 (evidence file, folio 804); and Fifth Criminal Court of the Bogotá Specialized Circuit, Judgment of February 24, 2016 (evidence file, folio 24050).

<sup>120</sup> Cf. Expansion of statement made by Jineth Bedoya Lima before the Office of the Attorney General of the Nation, May 30, 2000 (evidence file, folio 105); and Sworn statement of Jineth Bedoya Lima, November 26, 2011 (evidence file, folio 805).

<sup>121</sup> Cf. Sworn statement of Jineth Bedoya Lima, November 26, 2011 (evidence file, folio 805).

<sup>122</sup> Cf. Sworn statement of Jineth Bedoya Lima, November 26, 2011 (evidence file, folio 805).

<sup>123</sup> Cf. Sworn statement of Jineth Bedoya Lima, November 26, 2011 (evidence file, folio 806).

<sup>124</sup> Cf. Report 195 FGN.CTI.SI, Villavicencio Forensic Investigation Corps, of May 26, 2000 (evidence file, folio 123); and Sworn statement of Jineth Bedoya Lima, November 26, 2011 (evidence file, folio 806).

<sup>125</sup> Cf. Report 195 FGN.CTI.SI, Villavicencio Forensic Investigation Corps, of May 26, 2000 (evidence file, folio 123).

<sup>126</sup> Cf. Complaint filed by Jorge Enrique Cardona Álzate before the Office of the Attorney General of the Nation, May 26, 2000 (evidence file, folio 91); and sworn statement given by Jorge Enrique Cardona Álzate before the Office of the Attorney General of the Nation, November 1, 2011 (evidence file, folio 19).

<sup>127</sup> Cf. Sworn statement given by Jorge Enrique Cardona Álzate before the Office of the Attorney General of the Nation, November 1, 2011 (evidence file, folio 20).

<sup>128</sup> Cf. Complaint filed by Jorge Enrique Cardona Álzate before the Office of the Attorney General of the Nation, May 26, 2000 (evidence file, folio 91); and sworn statement given by Jorge Enrique Cardona Álzate before the Office of the Attorney General of the Nation, November 1, 2011 (evidence file, folio 20).

<sup>129</sup> Cf. Complaint filed by Jorge Enrique Cardona Álzate before the Office of the Attorney General of the Nation, May 26, 2000 (evidence file, folio 91); and Fifth Criminal Court of the Bogotá Specialized Circuit, Judgment of February 24, 2016 (evidence file, folio 24050). See also statement by Jorge Enrique Cardona Álzate given during the public hearing held on March 15, 22, and 23 within the framework of the 140th regular sessions.

never entered the prison.<sup>130</sup> The director also stated that he did not know who Ms. Bedoya was and that he had no knowledge of an appointment with the paramilitaries.<sup>131</sup>

64. Finally, that night, the journalists were informed that Ms. Bedoya had been "found tied hand and foot, abused" in a rural area of Villavicencio<sup>132</sup> and that she was in that town's police hospital. That same day, when Mr. Cardona returned to the newspaper, two people who identified themselves as DIJIN agents were waiting for him. They took a statement from him about what happened, but according to Mr. Cardona, they "never appeared again."<sup>133</sup>

### **C. Criminal proceeding regarding the facts that took place on May 25, 2000**

65. On May 26, 2000, Ms. Bedoya was interviewed by the Villavicencio CTI. The investigators prepared a report and prepared a morphological profile of the individual who kidnapped the journalist.<sup>134</sup> The report concluded the "*El Espectador* journalist JINETH BEDOYA LIMA was kidnapped in an act apparently perpetrated by paramilitary groups as retaliation and a threat for her journalism work done at the National Model Prison." That same day, the 103rd Specialized Prosecutor before the Unified Personal Liberty Action Group (Grupo de Acción Unificada por la Libertad Personal, GAULA) for Bogotá of the Office of the Attorney General of the Nation went to the hospital where Ms. Bedoya was admitted to get a statement from her. However, because of her "physical and mental state" and "obvious signs of mental distress," it was postponed.<sup>135</sup> The prosecutor went to *El Espectador*'s headquarters to collect a complaint from Jorge Cardona Álzate regarding the crimes committed against the journalist. That same day, the Prosecutor ordered the opening of a preliminary criminal investigation for the crime of simple kidnapping and violent sexual act, as well as the initial investigative steps. On May 30, 2000, the interview with Ms. Bedoya was continued.<sup>136</sup>

66. In an order dated June 6, 2000, the Prosecutor's Office assigned investigation of the case to the National Human Rights Unit (UNDH).<sup>137</sup> On June 8, 2000, Ms. Bedoya continued giving testimony,<sup>138</sup> and on June 19, she added to her statement before the Specialized Prosecutor of the National Human Rights Unit.<sup>139</sup> On June 20, 2000, a new report was received from the CTI, incorporating the gynecological examinations performed on Ms. Bedoya, as well as her medical history.<sup>140</sup>

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<sup>130</sup> Cf. Complaint filed by Jorge Enrique Cardona Álzate before the Office of the Attorney General of the Nation, May 26, 2000 (evidence file, folio 92). See also, statement of the director of La Modelo Prison of September 28, 2000, Office of the Attorney General of the Nation, Report on resolution proceedings of June 19, 2000 (evidence file, folios 194 and 197).

<sup>131</sup> Cf. Sworn statement given by Jorge Enrique Cardona Álzate before the Office of the Attorney General of the Nation, November 1, 2011 (evidence file, folio 21). See also statement by Jorge Enrique Cardona Álzate given during the public hearing held on March 15, 22, and 23 within the framework of the 140th regular sessions.

<sup>132</sup> Cf. Complaint filed by Jorge Enrique Cardona Álzate before the Office of the Attorney General of the Nation, May 26, 2000 (evidence file, folio 92). Also see sworn statement given by Jorge Enrique Cardona Álzate before the Office of the Attorney General of the Nation, November 1, 2011 (evidence file, folio 21).

<sup>133</sup> Cf. Sworn statement given by Jorge Enrique Cardona Álzate before the Office of the Attorney General of the Nation, November 1, 2011 (evidence file, folio 21).

<sup>134</sup> Cf. Report 195 FGN.CTI.SI, Villavicencio Forensic Investigation Corps, of May 26, 2000 (evidence file, folio 123).

<sup>135</sup> Cf. Office of the Attorney General of the Nation, Office of the Appointed Prosecutor before the Criminal Judges of the GAULA-Bogotá Specialized Circuit, record of May 26, 2000 (evidence file, folio 130).

<sup>136</sup> Cf. Expansion of statement made by Jineth Bedoya Lima before the Office of the Attorney General of the Nation, May 30, 2000 (evidence file, folio 101 and following).

<sup>137</sup> Cf. Office of the Attorney General of the Nation, Resolution of June 6, 2000 (evidence file, folios 155 and 156).

<sup>138</sup> Cf. Expansion of statement made by Jineth Bedoya Lima before the Office of the Attorney General of the Nation, June 8, 2000 (evidence file, folio 83).

<sup>139</sup> Cf. Expansion of statement of Jineth Bedoya Lima, June 15, 2000 (evidence file, folio 161).

<sup>140</sup> Cf. Office of the Attorney General of the Nation, Report of the National Institute of Legal Medicine and Forensic

67. During October, November, and December 2000, several investigative procedures were carried out, including collecting statements from Jhon Jairo Velásquez, alias "Popeye" and the director of the La Modelo Prison.<sup>141</sup> New investigative procedures were conducted between January and April 2001.<sup>142</sup> On April 1, 2003, the CTI of the Office of the Attorney General of the Nation presented a report with information collected from interviews with Jhon Jairo Velásquez and Ms. Bedoya, pointing to the possible motives for the crimes committed and the alleged participation of paramilitaries and members of State intelligence agencies.<sup>143</sup> On May 22, 2003, in adding to her testimony, the journalist presented information obtained over the course of her reporting on the possible perpetrators of the facts and asked that it be added to the investigation.<sup>144</sup> Between 2004 and 2005, new investigative steps were agreed upon and carried out, and additional testimony or expansions thereof were collected.<sup>145</sup>

68. On August 13, 2007, the Sixth Specialized Prosecutor of the National Human Rights and International Humanitarian Law Unit agreed to give impetus to the investigations and therefore to (i) hear an expanded statement by Ms. Bedoya, (ii) hear an expansion of the statement by Mario Jaimes Mejía and (iii) indicate to the Human Rights Group of the CTI to continue with "the respective investigative tasks aimed at singling out and identifying the other persons who took part in one way or another as masterminds or perpetrators" of the facts.<sup>146</sup> On August 28, 2007, Ms. Bedoya again expanded her statement in the context of the investigations into her kidnapping.<sup>147</sup> Between 2007 and 2011, new investigative procedures were agreed upon, including, *inter alia*, obtaining footage from the surveillance cameras on the day of the events, securing information on the persons working in the facilities of the La Modelo Prison on the day of the facts, and collecting the testimony of Jaimes Mejía alias "el Panadero" or Jhon Jairo Vásquez Velásquez alias "Popeye."<sup>148</sup> On August 11, 2010,

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Sciences of June 20, 2000 (evidence file, folios 170 to 190).

<sup>141</sup> Cf. Office of the Attorney General of the Nation, Report on resolution proceedings of June 19, 2000 (evidence file, folios 194 and 197); Office of the Attorney General of the Nation, Record of judicial inspection of November 8, 2000 (evidence file, folio 230); Office of the Attorney General of the Nation, Record of judicial inspection of November 15, 2000 (evidence file, folio 227); and Office of the Attorney General of the Nation, Report of December 13, 2000 (evidence file, folio 252).

<sup>142</sup> Cf. Office of the Attorney General of the Nation, photographic lineup, February 2, 2001 (evidence file, folio 265); and Statement of Arle Olaya Quevedo, of April 26, 2001 (evidence file, folio 269).

<sup>143</sup> Cf. Office of the Attorney General of the Nation, Report of April 1, 2003 (evidence file, folios 290 to 297).

<sup>144</sup> Cf. Expansion of statement of Jineth Bedoya Lima, of May 22, 2003 (evidence file, folio 328 following).

<sup>145</sup> Cf. Office of the Attorney General of the Nation, Resolution of June 29, 2004 (evidence file, folios 381 and 382); Report of the Judicial Police, of October 1, 2004 (evidence file, folios 384 to 390); Office of the Attorney General of the Nation, Resolution of January 31, 2005 (evidence file, folios 392 and 393); and Office of the Attorney General of the Nation, Report of April 13, 2005 (evidence file, folios 396 and 397).

<sup>146</sup> Cf. Office of the Attorney General of the Nation, Resolution of August 13, 2007 (evidence file, folio 400).

<sup>147</sup> Cf. Expansion of statement of Jineth Bedoya Lima, August 28, 2007 (evidence file, folio 403).

<sup>148</sup> Cf. Office of the Attorney General of the Nation, Resolution of September 15, 2007 (evidence file, folios 409 to 411); Office of the Attorney General of the Nation, Resolution of October 31, 2007 (evidence file, folios 413 and 414); Office of the Attorney General of the Nation, Resolution of August 21, 2008 (evidence file, folios 416 and 417); Bureau of Criminal Investigation, office on crimes against life, human rights, and international humanitarian law, partial report of activities, January 7, 2009 (evidence file, folios 610 and 611); Office of the Attorney General of the Nation, Decision of September 15, 2007 (evidence file, folios 409 to 411); Office of the Attorney General of the Nation, Resolution of August 12, 2010 (evidence file, folio 646); Statement made by Jhon Jairo Velásquez Vásquez, on September 9, 2010 (evidence file, folios 648 to 652); Office of the Attorney General of the Nation, Order of November 12, 2010 (evidence file, folios 654 and 655; Office of the Attorney General of the Nation, Resolution of August 15, 2011 (evidence file, folio 679); Office of the Attorney General of the Nation, Resolution of April 29, 2011 (evidence file, folios 714 to 717); Office of the Attorney General of the Nation, Resolution of June 29, 2011 (evidence file, folios 737 to 743); Resolution of September 13, 2011 (evidence file, folio 679); Office of the Attorney General of the Nation, Resolution of April 29, 2011 (evidence file, folios 714 to 717; Office of the Attorney General of the Nation, Resolutions of September 13 and October 12, 2011 (evidence file, pages 790 and 791 and folios 793 to 798).

Ms. Bedoya further extended the complaint<sup>149</sup> and on November 26, 2011, Ms. Bedoya submitted a new sworn statement.<sup>150</sup> On April 30, 2012, Ms. Bedoya once again gave a sworn statement before the Office of the Attorney General of the Nation.<sup>151</sup>

69. With regard to the persons prosecuted for the facts committed against Ms. Bedoya on May 25, 2000, the information that is outlined below is what is available.

*c.1 Criminal proceedings against Alejandro Cárdenas Orozco*

70. In the framework of the criminal procedure regarding the crimes committed against Ms. Bedoya on May 25, 2000, Mr. Alejandro Cárdenas Orozco, alias "JJ or John Jairo Restrepo," demobilized from the Centauros Bloc of the United Self-Defense Forces of Colombia and held in the "La Picota" prison (Bogotá), acknowledged having been the person who intercepted and kidnapped Ms. Bedoya on the orders of commanders of the Centauros Bloc.<sup>152</sup> On September 13, 2011, the account given by Mr. Cárdenas on September 6, 2011 before the justice and peace jurisdiction, in which he acknowledged his participation in Ms. Bedoya's kidnapping on May 25, 2000 was forwarded to the Office of the Attorney General.<sup>153</sup> Following a series of inquiries, on February 22, 2013, formal charges were filed against Mr. Cárdenas as part of a plea bargain in which he plead guilty to simple kidnapping with circumstances of aggravation and torture of a protected person.<sup>154</sup>

71. On February 24, 2016, the Fifth Criminal Judge of the Bogotá Specialized Circuit convicted Alejandro Cárdenas Orozco and sentenced him to 11 years and 5 months in prison, to a fine of ninety legal monthly minimum wages in force at the time of the events, as well as to the civil penalty of disqualification from the exercise of public rights and functions for a period equal to restriction on liberty, for the crimes, as co-perpetrator, of simple kidnapping with aggravating circumstances and "torture of a protected person," to the detriment of the victim Jineth Bedoya Lima. The judge also classified the facts suffered by Ms. Bedoya as a crime against humanity.<sup>155</sup>

72. Likewise, on May 6, 2019, the Fifth Criminal Court of the Bogotá Specialized Circuit convicted Alejandro Cárdenas Orozco and sentenced him to 30 years in prison, along with the civil penalty of disqualification from the exercise of public rights and functions for 20 years, for the crime of "aggravated violent rape of a protected person," to the detriment of the victim Jineth Bedoya Lima.<sup>156</sup> On October 28, 2019, the Criminal Decision Chamber of the Superior Court of the Judicial District of Bogotá D.C. agreed to modify the sentence by convicting Alejandro Cárdenas Orozco and sentencing him to 30 years in prison as co-perpetrator of the "crime of aggravated violent rape."<sup>157</sup>

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<sup>149</sup> Cf. Expansion of complaint of Jineth Bedoya Lima, August 11, 2010 (evidence file, folio 638).

<sup>150</sup> Cf. Sworn statement of Jineth Bedoya Lima, November 26, 2011 (evidence file, folios 4414 to 44124).

<sup>151</sup> Cf. Sworn statement of Jineth Bedoya Lima, April 30, 2012 (evidence file, folio 801).

<sup>152</sup> Cf. Resolution of Specialized Prosecutor 49 UNDH-DIH, of September 2, 2011 (evidence file, folio 777).

<sup>153</sup> Cf. Statement made by Alejandro Cárdenas Orozco, of September 6, 2011, forwarded by the Chief Prosecutor of the National Unit of Public Prosecutions for Justice and Peace to the Head of the National Unit for Human Rights and International Humanitarian Law (evidence file, folio 782).

<sup>154</sup> Cf. Formal charges for plea bargain of February 22, 2013 for defendant Alejandro Cárdenas Orozco (evidence file, folios 833 to 902), and Fifth Criminal Court of the Specialized Circuit of Bogotá, Judgment of February 24, 2016 (evidence file, folio 24046).

<sup>155</sup> Cf. Fifth Criminal Court of the Bogotá Specialized Circuit, Judgment of February 24, 2016 (evidence file, folios 24070 to 24071).

<sup>156</sup> Cf. Fifth Criminal Court of the Bogotá Specialized Circuit, Judgment of May 6, 2019 (evidence file, folio 24225).

<sup>157</sup> Cf. Superior Court of the Judicial District of Bogotá D.C., Criminal Decision Chamber, Judgment of October 28, 2019 (evidence file, folio 24274).

### *c.2 Criminal proceedings against Jesús Emiro Pereira Rivera*

73. On August 5, 2011, the 6th specialized Prosecutor's Office assigned to the National Human Rights and International Humanitarian Law Unit ordered an investigation opened into Jesús Emilio Pereira Rivera, alias "Huevo de Pisca" or "Alfonso,"<sup>158</sup> who acknowledged having belonged to the Centauros Bloc of the United Self-Defense Forces of Colombia.<sup>159</sup>

74. On November 26, 2011, the 49th Special Prosecutor's Office implicated him through its investigation.<sup>160</sup> On June 22, 2015, the 50th Special Prosecutor's Office ordered the investigation into Jesús Emiro Pereira Rivera partially closed and on September 22, 2015 filed charges against him for "simple aggravated kidnapping, torture and aggravated violent rape of a protected person," a decision that was confirmed by a higher office on February 26, 2016.<sup>161</sup> On May 6, 2019, the Fifth Criminal Court of the Bogotá Specialized Circuit sentenced Jesús Emiro Pereira Rivera to 40 years and 6 months in prison and a fine equivalent to 300 of the monthly minimum wage in force at the time of the facts, as well as the civil penalty of disqualification from the exercise of rights and public functions for 20 years, as co-perpetrator of the crimes of "simple aggravated kidnapping, torture and aggravated violent rape of a protected person" for the facts of which the journalist Jineth Bedoya Lima was a victim on May 25, 2000.<sup>162</sup> On October 28, 2019, the Criminal Decision Chamber of the Superior Court of the Judicial District of Bogotá D.C. agreed to modify the sentence by convicting Jesús Emiro Pereira Rivera and sentencing him to 40 years and 6 months in prison and a fine equivalent to 300 of the minimum monthly wage in force at the time of the facts as co-perpetrator of the crimes of "aggravated violent rape" and "simple aggravated kidnapping and torture."<sup>163</sup>

### *c.3 Criminal procedure brought against Mario Jaimes Mejía*

75. On August 5, 2011, the 6th specialized Prosecutor's Office assigned to the National Human Rights and International Humanitarian Law Unit ordered an investigation opened into former paramilitary soldier Mario Jaimes Mejía, alias "el Panadero."<sup>164</sup> On October 12, 2011, he was implicated through the investigation.<sup>165</sup>

76. On February 2, 2016, the public hearing for the trial of the defendant was held before the Fifth Criminal Judge of the Bogotá Specialized Circuit. At the hearing, he plead guilty to all the charges brought by the 50th Specialized Prosecutor for Human Rights and DJH for "simple kidnapping committed with aggravating circumstances, in teleological connection with torture of a protected person and violent rape of a protected person committed with aggravating circumstances." On March 18, 2016, Mario Jaimes Mejía was sentenced as illicit co-perpetrator to 28 years, 2 months, and 10 days in prison, as well as a fine of 125 legal monthly minimum wages in effect for the year 2000, among other penalties, for the crimes of aggravated violent rape, simple aggravated kidnapping, and

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<sup>158</sup> Cf. Fifth Criminal Court of the Bogotá Specialized Circuit, Judgment of May 6, 2019 (evidence file, folio 24202).

<sup>159</sup> Cf. Fifth Criminal Court of the Bogotá Specialized Circuit, Judgment of May 6, 2019 (evidence file, folios 24148 to 24226).

<sup>160</sup> Cf. Fifth Criminal Court of the Bogotá Specialized Circuit, Judgment of May 6, 2019 (evidence file, folio 24151).

<sup>161</sup> Cf. Fifth Criminal Court of the Bogotá Specialized Circuit, Judgment of May 6, 2019 (evidence file, folios 24152 to 24155).

<sup>162</sup> Cf. Fifth Criminal Court of the Bogotá Specialized Circuit, Judgment of May 6, 2019 (evidence file, folio 24225).

<sup>163</sup> Cf. Superior Court of the Judicial District of Bogotá D.C., Criminal Decision Chamber, Judgment of October 28, 2019 (evidence file, folio 24274).

<sup>164</sup> Cf. Fifth Criminal Court of the Bogotá Specialized Circuit, Judgment of March 18, 2016 (evidence file, folio 24096).

<sup>165</sup> Cf. Fifth Criminal Court of the Bogotá Specialized Circuit, Judgment of March 18, 2016 (evidence file, folio 24096).

torture, to the detriment of the victim Jineth Bedoya Lima.<sup>166</sup> According to this judgment, Mario Jaimes Mejía played an “important, crucial, and valuable role” in the execution of the facts, since he was responsible for carrying out the “task assigned by the paramilitary high command,” making the appointment with Ms. Bedoya, and participated in a “criminal plan that was organized, systematic, and comprehensive” targeting Ms. Bedoya in particular and journalism in general.<sup>167</sup>

*c.4 Criminal procedure brought against A.L.*

77. On February 27, 2015, former paramilitary soldier A.L., being held at the time in a Colombian jail, gave a statement in which he said he had witnessed the facts. In that statement, he plead guilty and accepted a plea agreement.<sup>168</sup> A.L. submitted a request to be brought before the Special Jurisdiction for Peace.<sup>169</sup> The Court has no further information regarding what happened in the proceedings against A.L.

**D. Investigation of the 6th Specialized Prosecutor for omissions in the criminal process**

78. On February 29, 2011, Criminal Judicial Procurator 19 issued an official letter addressed to Specialized Prosecutor 49 of the UNDH, whereby she ordered the certification of copies before criminal and disciplinary justice against Specialized Prosecutor 6 for it to be investigated over the “omission of facts recorded in the criminal proceeding carried out with regard to the heinous facts of which Ms. [...] Bedoya Lima was a victim.” The file on this complaint was closed on March 25, 2015 for “atypical conduct.”<sup>170</sup>

**E. Attacks, threats, and kidnapping of Ms. Bedoya subsequent to the events of May 25, 2000 and precautionary measures adopted by the Inter-American Commission**

79. Ms. Bedoya continued to receive threats in connection with the exercise of her profession. On June 2, 2000, the Inter-American Commission granted precautionary measures to protect the lives and physical integrity of Jineth Bedoya Lima, Hollman Morris Rincón (editor of the peace section of *El Espectador*), and Jorge Cardona Álvarez (courts editor of the newspaper).<sup>171</sup> To comply with this decision, in June 2000 the National Police assigned the journalist a protection plan.<sup>172</sup> In January 2002, Ms. Bedoya began working at the newspaper *El Tiempo*.<sup>173</sup> In 2002 and 2003, Ms. Bedoya, along with other journalists from the newspaper, continued to receive threats in the form of emails and phone calls.<sup>174</sup> Ms. Bedoya’s telephone was tapped, something that was verified by members of

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<sup>166</sup> Cf. Fifth Criminal Court of the Bogotá Specialized Circuit, Judgment of March 18, 2016 (evidence file, folio 24146).

<sup>167</sup> Cf. Fifth Criminal Court of the Bogotá Specialized Circuit, Judgment of March 18, 2016 (evidence file, folios 24127 and 24130).

<sup>168</sup> Cf. Preliminary statement of A.L., of February 27, 2015 (evidence file, folios 1207 to 1214).

<sup>169</sup> Cf. Special Jurisdiction for Peace, response to filing 20191510279462, of July 16, 2019 (evidence file, folios 23489 and 23491).

<sup>170</sup> Cf. Office of the Attorney General of the Nation, Deputy Attorney Assigned to the Superior Court of the Judicial District of Bogotá D.C., Official Letter no. 01734, of March 25, 2015 (evidence file, folio 1223).

<sup>171</sup> Cf. IACtHR, “Precautionary Measures 2000,” available at: <http://www.cidh.org/medidas/2000.eng.htm>

<sup>172</sup> Cf. Expansion of statement of Jineth Bedoya Lima, of May 22, 2003 (evidence file, folio 333); and expansion of statement of Jineth Bedoya Lima, August 28, 2007 (evidence file, folio 406).

<sup>173</sup> Cf. *El Tiempo*, “Jineth Bedoya, una periodista crítica, terca y apasionada,” February 9, 2016. Available at: <https://www.eltiempo.com/archivo/documento/CMS-16505480>.

<sup>174</sup> Cf. Expansion of statement of Jineth Bedoya Lima, of May 22, 2003 (evidence file, folio 335 and 336).

military intelligence<sup>175</sup> and acknowledged by the State in the context of the contentious procedure before this Court.<sup>176</sup> Regarding this, Ms. Bedoya noted at the public hearing before the Court that her communications had been intercepted for 21 years.<sup>177</sup> She also indicated the security plan assigned earlier by the State had been found to include a network of police kidnappers.<sup>178</sup>

80. On August 18, 2003, Ms. Bedoya was kidnapped again, along with her journalism team from *El Tiempo*, and held for 5 days. The kidnapping was attributed to the Revolutionary Armed Forces of Colombia (hereinafter "FARC").<sup>179</sup> In November 2010, after publishing her book entitled *Vida y Muerte del Mono Jojoy*, the journalist again received threats that, according to State security and intelligence agencies, came from the FARC. Faced with this danger, the journalist decided to leave the country temporarily.<sup>180</sup> The journalist filed a complaint about these threats, which was closed by the Office of the Public Prosecutor in June 2014 upon finding that it was impossible to identify those responsible for the threats.<sup>181</sup> Ms. Bedoya continued to receive threats during the years to come, via messages to her phone, WhatsApp messages, phone calls from Colombia and abroad, and messages to the newspaper where she works currently.<sup>182</sup> All the complaints filed by Ms. Bedoya were either closed<sup>183</sup> or are still being processed.<sup>184</sup>

## **VIII MERITS**

81. This case is related to (i) the facts that occurred on May 25, 2000 to the detriment of Ms. Bedoya and the subsequent investigation and judicial proceedings; (ii) the alleged lack of due

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<sup>175</sup> Cf. Expansion of statement of Jineth Bedoya Lima, of May 22, 2003 (evidence file, folio 333). Also see statement from Jineth Bedoya Lima given at the public hearing held on March 15, 22, and 23, 2021 within the framework of the 140th regular sessions.

<sup>176</sup> Cf. Response of the State of March 16, 2020 (merits file, folio 629 to 634).

<sup>177</sup> Cf. Statement from Jineth Bedoya Lima given at the public hearing held on March 15, 22, and 23, 2021 within the framework of the 140th regular sessions.

<sup>178</sup> Cf. Statement from Jineth Bedoya Lima given at the public hearing held on March 15, 22, and 23, 2021 within the framework of the 140th regular sessions.

<sup>179</sup> Cf. Statement from Jineth Bedoya Lima given at the public hearing held on March 15, 22, and 23, 2021 within the framework of the 140th regular sessions, where she stated that "In 2003, while reporting from the jungles of Colombia where I obviously could not move about with the security provided, I was kidnapped by the FARC's 44th Front with the photojournalist who was with me. We held for eight days, and then, thanks to the humanitarian actions of the church in the area and the local residents, the guerrillas released us."

<sup>180</sup> Cf. Statement from Jineth Bedoya Lima given at the public hearing held on March 15, 22, and 23, 2021 within the framework of the 140th regular sessions.

<sup>181</sup> Cf. Office of the Attorney General of the Nation, Official Letter No. 239-640, of June 17, 2014 (evidence file, folio 2076).

<sup>182</sup> Cf. Statement from Jineth Bedoya Lima given at the public hearing held on March 15, 22, and 23, 2021 within the framework of the 140th regular sessions.

<sup>183</sup> In this regard, Ms. Bedoya testified as follows during the public hearing held on March 15, 22 and 23 in the framework of the 140 regular session:

Since the end of 2000, after my kidnapping and to this day, today in March 2021, I have continued to receive threats, threats and persecution, but also intimidation directed at my sources and people who are part of the process who have been intimidated and who have been victims of harassment and other incidents. To this day, we are not clear on who are responsible, the Office of the Public Prosecutor has not carried out a serious investigation in this regard, no one has been charged, and it has not been established who is behind these threats. Paradoxically the day my case was admitted to the Court in 2019, the morning after the announcement that the case had been admitted, I received threats from a phone number outside of Colombia and we delivered all the data and all the evidence to the Prosecutor's Office and two years later, they still have not managed to establish who made those threats.

Also see response of the State of March 16, 2020 (merits file, folios 632 and 633).

<sup>184</sup> Cf. Response of the State of March 16, 2020 (merits file, folios 632 and 633).

diligence in the investigation of the previous and subsequent threats suffered so far by Ms. Bedoya and her mother, Luz Nelly Lima; and (iii) the effects of all the above on the personal integrity of Luz Nelly Lima.

## VIII -1

### **RIGHTS TO LIFE, PERSONAL INTEGRITY, PERSONAL LIBERTY, PROTECTION OF HONOR AND DIGNITY, FREEDOM OF THOUGHT AND EXPRESSION, AND EQUAL PROTECTION,<sup>185</sup> IN RELATION TO THE OBLIGATIONS OF RESPECT AND GUARANTEE, AS WELL AS TO ARTICLES 7(A) AND (B) OF THE CONVENTION OF BELÉM DO PARÁ AND ARTICLES 1 AND 6 OF THE ICPPT**

82. In this chapter, the Court will examine, first, the allegations regarding the violation of the rights to humane treatment and personal liberty, recognized in articles 5(1) and 7 of the American Convention, in relation to the obligations to respect and guarantee the rights established in Article 1(1) of the same instrument, as well as articles 7(a) and (b) of the Convention of Belém do Pará, regarding the facts that took place on May 25, 2000 to the detriment of Ms. Bedoya. Second, it will analyze whether the facts that took place on May 25, 2000 qualify as torture and whether the State may eventually be found internationally responsible for the alleged violation of articles 5(2) and 11 of the American Convention, in relation to the obligations contained in Article 1(1) of the same instrument, article 7(b) of the Convention of Belém do Pará, and articles 1 and 6 of the ICPPT. Lastly, the Court will examine the alleged impact of these facts on the right to freedom of thought and expression enshrined in Article 13 of the American Convention, in relation to Article 1(1) of the same instrument.

#### **A. Arguments of the parties and of the Commission**

83. Regarding the facts that took place on May 25, 2000, the **Commission** observed that the State was aware that Ms. Bedoya could be the victim of an attack on her life and personal integrity as a consequence of her coverage of the incidents of violence that took place in the La Modelo Prison in the days prior. The Commission argued that the meeting with police officials one day prior to the facts over threats placed in the mailboxes at *El Espectador* during which "recommendations on self-protection" were made did not constitute a reasonable action in this particular case. For the Commission, in view of "the circumstances of the case and the context in the country," the risk that Ms. Bedoya faced was "real and imminent." The Commission also noted that "neither the DAS, nor the National Police, nor the Protection Unit of the Ministry of the Interior [...] adopted timely and adequate measures to prevent acts of violence and intimidation against Jineth Bedoya—specifically, to prevent the events of May 25, 2000." Likewise, the Commission classified the facts of violence and, in particular, sexual violence suffered by Ms. Bedoya as torture, since "they were carried out intentionally," "caused the journalist serious physical and psychological suffering," and "they were perpetrated with a dual purpose: to punish her for her work and to dissuade other journalists." It argued that the rape of Ms. Bedoya in the framework of the internal armed conflict in Colombia was used "as a symbolic means of humiliating her or as a means of punishment and repression," as a "weapon of terror" or "weapon or tactic of war." The Commission concluded that the authorities did not take measures that could reasonably have been adopted to prevent the materialization of a certain and imminent risk to the life, integrity, and personal liberty of Jineth Bedoya, in violation of Articles 4, 5, and 7 of the American Convention. It also added that this lack of protection had "an impact on the exercise of other fundamental rights," such as the right to freedom of expression, in violation of Article 13 of the American Convention. Likewise, it argued that by failing to comply with

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<sup>185</sup> Articles 4, 5, 7, 11, 13, and 24 of the American Convention on Human Rights, in relation to Article 1(1) of the Convention, Articles 7(a) and 7(b) of the Convention of Belém do Pará, and Articles 1, 6, and 8 of the ICPPT.

its obligation to protect the journalist from the sexual violence she suffered, the State violated Articles 5(1), 5(2), 11, and 24 of the American Convention, in relation to the obligations contained in Article 1(1) of the Convention, Article 7(b) of the Convention of Belém do Pará, and Articles 1 and 6 of the ICPPT. Likewise, in its final written arguments, it argued that there was "serious evidence" suggesting the participation of State agents in the facts.

84. The **representatives** argued that the State did not comply with its obligation to respect, since there was "close collaboration" between paramilitaries and State agents in the perpetration of the facts that took place on May 25, 2000. This would also mean that the State was responsible for the "illegal and arbitrary detention of the victim" and the "sexual violence to which she was subjected by paramilitary soldiers who acted in cooperation with State agents," which was classified as acts of torture. Additionally, the representatives argued that in this case, the State had an enhanced duty to prevent the violation of the rights of journalist Jineth Bedoya in view of her status as a woman journalist and a human rights defender, and given the existence of a context of violence against journalists and a systematic practice of sexual violence against women around the time of the facts. They added that the State was aware of the risk to which she was exposed and did not adopt effective measures. They also noted that the authorities had specific knowledge that Ms. Bedoya was facing a situation of "real and immediate risk as a result of the multiple threats she had received and her specific work at La Modelo." They therefore concluded that the State was responsible for the violation of Ms. Bedoya's rights set forth in articles 5, 7, and 11 of the American Convention and breach of its obligations contained in Article 1(1) of the same instrument, Article 7 of the Convention of Belém do Pará, and articles 1, 6, and 8 of the ICPPT. Additionally, they indicated that these facts also amounted to a violation of Ms. Bedoya's right to freedom of expression, since the attack on Ms. Bedoya was also intended to "send a message to journalists in the country about the risks of investigating issues related to the armed conflict in Colombia and specifically the participation of state and paramilitary actors." They additionally argued that the State was responsible for the violation of Ms. Bedoya's right to defend human rights, since all the facts suffered by Ms. Bedoya took place as a result of the human rights defense work that she was doing and continues to do. Consequently, they concluded that the State was responsible for the violation of articles 13, 8, and 25 of the American Convention, in conjunction with breach of the obligations contained in Article 1(1) of the Convention.

85. The **State** indicated that it had taken reasonable measures to address the risk facing Ms. Bedoya. It argued that it was not aware of the risk facing Ms. Bedoya, and that prior to the events of May 25, 2000, the journalist had support from State authorities, especially the National Police, who offered her measures of protection in response to the threats received. It argued that Ms. Bedoya Lima should have notified the authorities in advance that she was going to the La Modelo prison to conduct the interview with "El Panadero," but that she never did. The State objected to the Commission's assertion that Ms. Bedoya was denied implementation of the measures of protection, since, as indicated, she was offered other mechanisms of protection and offered the suggestion that she go directly to State security agencies (DAS, National Police). Regarding the State's alleged participation in the facts that took place on May 25, 2000, the State argued that the judicial authorities seriously and diligently investigated the possible participation of State agents and that this hypothesis could not be corroborated. In its final written arguments, the State reiterated that there was insufficient evidence to prove, "beyond any reasonable doubt," that State agents had participated in the planning and execution of the facts, although it specified that currently, the criminal investigation into the facts that took place on May 25, 2000 remains ongoing and that one of the current lines of investigation "is seeking to establish whether State agents participated in the case." Lastly, it argued that all of the foregoing mean that Colombia should not be held responsible for the acts of torture suffered by Ms. Bedoya.

#### **B. Considerations of the Court**

86. Preliminarily, the Court notes that there is no dispute as to the fact that on May 25, 2000, Ms.

Bedoya was intercepted and kidnapped at the gates of the La Modelo Prison by a group of men associated with the United Self-Defense Forces of Colombia paramilitary organization, and that the reason for this kidnapping was her journalistic activities and, in particular, an investigation she was conducting into a clash between paramilitary soldiers and members of common criminal groups that took place on April 27, 2000 inside the La Modelo Prison and resulted in the deaths of 32 inmates (*supra* para. 55). There is also no dispute over the fact that during the approximately 10 hours that her kidnapping lasted, Ms. Bedoya was subjected to humiliating and extremely violent treatment, with serious verbal and physical attacks including rape by several of the kidnappers. The Court also highlights that after several years of investigation and prosecution regarding these facts, three persons with ties to paramilitary groups have been convicted of being the material perpetrators of the events and sentenced to between 11 and 40 years in prison (*supra* paras. 70 to 76).

87. The matter to assess in this chapter is therefore whether the State is internationally responsible for the aforementioned events and the scope of any eventual responsibility. In this regard, it is important to highlight that the representatives argued that there was "close collaboration" between paramilitary soldiers and State agents in the perpetration of the facts that took place on May 25, 2000, and that, therefore, the State did not comply with its obligation to respect, arguing that there was "serious evidence" suggesting the participation of State agents in the facts. The State, for its part, denied any participation in the facts in question.

*b.1 International responsibility of the State for the kidnapping and torture of Ms. Bedoya on May 25, 2000*

88. According to Article 1(1) of the Convention, States are required to respect and guarantee the human rights established therein. The State's international responsibility arises from acts or omissions of any of its powers or organs, irrespective of their hierarchy, that violate the American Convention.<sup>186</sup> Regarding the duty to respect, the Court has held that this constitutes the "first obligation assumed by the States Parties," which translates into a "restriction on the exercise of State power"<sup>187</sup> where it clashes with rights protected by this international treaty. In addition, the Court has established in its jurisprudence that "in order to establish State responsibility for violating the duty to respect in relation to the actions of third parties, a general context of collaboration and acquiescence is not enough. Rather, it must be clear in the specific case that the State acquiescence or collaboration are specific to the circumstances."<sup>188</sup> The Court has found that it is most important to elucidate "whether a specific violation [...] has been committed with the support or tolerance of the public authorities, or whether the latter have acted in a way that has allowed the violation to be committed without preventing it or with impunity."<sup>189</sup> Additionally, the Court has established that the obligation to guarantee presumes that States have a duty to prevent human rights violations, including those committed by private third parties. The obligation to prevent is one of means or behavior, and it is not necessarily breached by the mere fact that a right has been violated.<sup>190</sup>

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<sup>186</sup> Cf. *Case of Velásquez Rodríguez v. Honduras*. Merits, *supra*, para. 164, and Judgment of July 29, 1988. Series C No.4, para. 164, and *Case of López Soto et al. v. Venezuela*. Merits, Reparations, and Costs. Judgment of September 26, 2018. Series C No. 362, para. 127.

<sup>187</sup> Cf. *The Word 'Laws' in Article 30 of the American Convention on Human Rights*, Advisory Opinion OC-6/86 of May 9, 1986. Series A No. 6, para. 21, and *Case of López Soto et al. v. Venezuela*, *supra*, para. 128.

<sup>188</sup> Cf. *Case of Yarce et al. v. Colombia*, *supra*, para. 180, and *Case of Omeara Carrascal et al. v. Colombia*. Merits, Reparations, and Costs. Judgment of November 21, 2018. Series C No. 368, para. 179.

<sup>189</sup> Cf. *Case of Velásquez Rodríguez v. Honduras*. Merits, *supra*, para. 173, and *Case of López Soto et al. v. Venezuela*, *supra*, para. 146.

<sup>190</sup> *Case of the Indigenous Communities of the Lhaka Honhat (Our Land) Association v. Argentina*. Merits, Reparations, and Costs. Judgment of February 6, 2020. Series C No. 400, para. 207.

89. Thus, the rights recognized in the American Convention not only entail obligations of a negative nature, but also require that the State adopt all appropriate measures to guarantee them (that is, obligations of a positive nature).<sup>191</sup> The duty covers all legal, political, and administrative measures that promote the protection of human rights and ensure that any violations of them are effectively considered and addressed as a violation of the law that, as such, can lead to punishment of the perpetrators, as well as an obligation to provide comprehensive reparations to victims for the harm caused.<sup>192</sup>

90. Additionally, in cases of violence against women, along with the general obligation established in the American Convention, States have specific obligations under the Convention of Belém do Pará that cast light into areas traditionally considered private or where the State did not intervene.<sup>193</sup> This regional treaty specifically aimed at combating violence against women gives a broad definition of what violence against women is in its articles 1 and 2.<sup>194</sup> In addition, the Convention of Belém do Pará itself, in its article 2, includes kidnapping as one of the types of conduct included under the concept of violence against women. Additionally, in Article 7, it establishes that States have a duty to prevent, punish, and eradicate violence against women, specifying and complimenting the State's compliance obligations for rights recognized in the American Convention, such as those set forth in Articles 4 and 5.<sup>195</sup> In this regard, the Court has established that States must adopt comprehensive measures to act with due diligence in cases of violence against women. Specifically, they must have an appropriate legal framework for protection that is enforced effectively, and prevention policies and practices that allow effective measures to be taken in response to the respective complaints.<sup>196</sup> The prevention strategy should also be comprehensive; in other words, it should prevent the risk factors and, at the same time, strengthen the institutions that can provide an effective response in cases of violence against women.<sup>197</sup>

91. The Court highlights that, in connection with the particular risk faced by women journalists, international and regional organizations have concluded that when adopting measures to protect journalists, States must apply a strongly differentiated approach that takes into account gender

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<sup>191</sup> Cf. *Case of Velásquez Rodríguez v. Honduras*. Merits, supra, paras. 165 and 166, and *Case of Lopez Soto et al. v. Venezuela*, supra, para. 129.

<sup>192</sup> Cf. *Case of López Soto et al. v. Venezuela*, supra, para. 129, and *Case of the Indigenous Communities of the Lhaka Honhat (Our Land) Association v. Argentina*, supra, para. 207.

<sup>193</sup> Cf. *Case of López Soto et al. v. Venezuela*. Merits, Reparations, and Costs. Judgment of September 26, 2018. Series C No. 362, para. 131.

<sup>194</sup> Article 1 establishes that "For the purposes of this Convention, violence against women shall be understood as any act or conduct, based on gender, which causes death or physical, sexual or psychological harm or suffering to women, whether in the public or the private sphere." Likewise, Article 2 provides as follows:

Violence against women shall be understood to include physical, sexual and psychological violence:

- a. that occurs within the family or domestic unit or within any other interpersonal relationship, whether or not the perpetrator shares or has shared the same residence with the woman, including, among others, rape, battery and sexual abuse;
- b. that occurs in the community and is perpetrated by any person, including, among others, rape, sexual abuse, torture, trafficking in persons, forced prostitution, kidnapping and sexual harassment in the workplace, as well as in educational institutions, health facilities or any other place; and
- c. that is perpetrated or condoned by the state or its agents regardless of where it occurs.

<sup>195</sup> Cf. *Case of Penal Miguel Castro Castro v. Peru*. Merits, Reparations, and Costs. Judgment of November 25, 2006. Series C No. 160, para. 346, and *Case of Women Victims of Sexual Torture in Atenco v. Mexico*. Preliminary Objections, Merits, Reparations, and Costs. Judgment of November 28, 2018. Series C No. 371, para. 180.

<sup>196</sup> Cf. *Case of González et al. ("Cotton Field") v. Mexico*, supra, para. 258, and *Case of Guzmán Albarracín et al v. Ecuador*. Merits, Reparations, and Costs. Judgment of June 24, 2020. Series C No. 405, para. 113.

<sup>197</sup> Cf. *Case of González et al. ("Cotton Field") v. Mexico*, supra, para. 258, and *Case of López Soto et al. v. Venezuela*, supra, para. 131.

considerations;<sup>198</sup> conduct a risk analysis; and implement protection measures that consider the aforementioned risk faced by women journalists as a result of gender-based violence.<sup>199</sup> In particular, in addition to the standards on gender-based violence and non-discrimination already developed by this Court, States must also observe the following positive obligations: a) identify and investigate with due diligence the special, differentiated risks they face<sup>200</sup> because they are female journalists,<sup>201</sup> as well as the factors that increase the possibility that they are victims of violence,<sup>202</sup> and b) adopt a gender approach when adopting measures to guarantee the safety of women journalists<sup>203</sup>—including those of a preventive nature—when requested,<sup>204</sup> as well as those aimed at protecting them from reprisals.<sup>205</sup> The Court finds, in view of the specific circumstances of this case, that the State's duty of prevention required enhanced diligence. Indeed, in view of the facts and the context at the time they occurred, the Court notes, from an intersectional perspective, that Ms. Bedoya was in a doubly vulnerable situation, due to her work as a journalist and for being a woman.<sup>206</sup>

92. In this case, the Court observes, first, that the State had been aware since at least May 27, 1999, that Ms. Bedoya was the target of numerous threats that endangered her life and/or personal integrity, in connection with the work she performed as a journalist. Indeed, the Court notes that on May 27, 1999, Ms. Bedoya experienced an attack that ended up putting her mother in the hospital. In August of that same year, the Administrative Security Department (DAS) decided to provisionally assign Ms. Bedoya security after she provided evidence "of vulnerability to her freedom, her life, and her personal integrity."<sup>207</sup> However, this security arrangement was withdrawn on November 24, 1999<sup>208</sup>—that is, only months before the facts that are the subject of this analysis took place. In this

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<sup>198</sup> Cf. United Nations Human Rights Council, Resolution adopted by the Human Rights Council on 27 September 2018, A/HRC/RES/39/6, and United Nations General Assembly, Resolution adopted by the General Assembly on 18 December 2019, A/RES/74/157.

<sup>199</sup> Cf. IACtHR, Women Journalists and Freedom of Expression: Discrimination and Gender-Based Violence Faced by Women Journalists in the Exercise of their Profession, para. 169.

<sup>200</sup> Cf. United Nations. Report of the Special Rapporteur on violence against women, its causes and consequences, A/HRC/44/52, May 6, 2020, para. 84.

<sup>201</sup> Cf. United Nations. Report of the Special Rapporteur on the situation of human rights defenders, A/74/159, July 16, 2019, paras. 105-111.

<sup>202</sup> The United Nations Special Rapporteur on violence against women, its causes and consequences, in her report "Combating violence against women journalists" A/HRC/44/52 of May 6, 2020, concluded and recommended that States "Address factors that increase the likelihood of violence and harassment in the world of work for women journalists, including discrimination, abuse of power relations and cultural and social norms that support violence and harassment, and create internal mechanisms against sexual harassment in the workplace." Also see United Nations, Committee on the Elimination of Discrimination against Women, General Recommendation No. 30 on women in conflict prevention, conflict and post-conflict situations, CEDAW/C/GC/30, of November 1, 2013, para. 17.

<sup>203</sup> Cf. United Nations General Assembly, Resolution 72/175, "The safety of journalists and the issue of impunity," 29 January 2018, A/RES/72/175. Also see United Nations, Committee on the Elimination of Discrimination against Women, General Recommendation No. 30 on women in conflict prevention, conflict and post-conflict situations, CEDAW/C/GC/30, of November 1, 2013, para. 17.

<sup>204</sup> Cf. United Nations, Report of the Special Rapporteur on violence against women, its causes and consequences, Combating violence against women journalists, A/HRC/44/52, May 6, 2020, paras. 80 to 82, and Committee of Ministers of the Council of Europe, Recommendation CM(Rec(2016)4, April 13, 2016, para. 9.

<sup>205</sup> Cf. United Nations, Committee against Torture, Concluding observations on the second periodic report of Afghanistan, CAT/C/AFG/CO/2, 12 June 2017, paras. 43 and 44, and United Nations, Committee against Torture, Concluding observations on the initial report of Pakistan, CAT/C/AFG/CO/1, 1 June 2017, paras. 22 and 23.

<sup>206</sup> For these purposes, a statement made by Ms. Bedoya at the hearing held before this Court sheds light on this, when she indicated that "If what happened to me on May 25 had happened to Pedro Pérez instead of Jineth Bedoya, for Pedro Pérez, they would have sent a hit man and they would have killed him. But they tortured and raped Jineth Bedoya." Cf. Statement from Jineth Bedoya Lima given at the public hearing held on March 15, 22, and 23, 2021 within the framework of the 140th regular sessions.

<sup>207</sup> Cf. Communication from the Administrative Security Department [DAS], of August 25, 1999 (evidence file, folio 95).

<sup>208</sup> Cf. Official Letter from the Coordinator of the Protection Area, General Office of the Special Administrative Unit for

regard, Mr. Cardona stated that Ms. Bedoya had been threatened not only in the weeks prior to the facts, but also "months ago" and that the DAS—which "had been periodically evaluating her security"—was aware of this.<sup>209</sup>

93. The Court finds, therefore, that the threats directed at Ms. Bedoya were credible, objectively verifiable, and indicated that the different perpetrators had the intent and capacity to carry them out.<sup>210</sup> Furthermore, it is clear that materialization of the risks facing Ms. Bedoya was highly probable as well as imminent. This imminence or immediacy is demonstrated by the fact that in days prior to the facts that occurred on May 25, 2000, and in response to the coverage of several *El Espectador* journalists (including Ms. Bedoya) of the clashes inside La Modelo Prison on April 27, 2000, they received small manila envelopes in the newspaper's mailboxes with threats addressed to them.<sup>211</sup> Also, Ms. Bedoya received death threats directed at her personally at that time.<sup>212</sup> Of particular relevance is the fact that following the threats directed at certain journalists as a result of the articles published on the aforementioned events of April 27, 2000, a meeting took place between the newspaper's director and several journalists and the Police<sup>213</sup> in which Ms. Bedoya also participated, to which reference has already been made (*supra* para. 56). Therefore, when the facts took place on May 25, 2000, the Police were aware of the future encounter that Ms. Bedoya would have with the paramilitary soldiers, which, given the preceding events cited, clearly placed her in a situation of immediate risk to her life and/or personal integrity.

94. Additionally, the Court cannot ignore the fact that all these threats and acts of intimidation were framed in a context in which Colombia was the country in the region with the most journalists killed in prior years,<sup>214</sup> where women were also exposed—due to their gender—to particular risks and specific vulnerabilities within the armed conflict, especially the risk of sexual violence,<sup>215</sup> described

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Human Rights, Ministry of Interior Affairs, November 24, 1999 (evidence file, folio 99). See also statement by Jorge Enrique Cardona Alzate given during the public hearing held on March 15, 22, and 23 within the framework of the 140th regular sessions.

<sup>209</sup> Cf. Complaint filed by Jorge Enrique Cardona Álzate before the Office of the Attorney General of the Nation, May 26, 2000 (evidence file, folio 92).

<sup>210</sup> United Nations Human Rights Council. Annex to the Report of the Special Rapporteur on extrajudicial, summary, or arbitrary executions: Investigation into the unlawful death of Mr. Jamal Khashoggi, A/HRC/41/CRP.1, June 19, 2019, para. 338. According to expert witness Daniela Kravetz, the threats and acts of harassment and intimidation constitute "predictability indicators" that point to a "greater risk and probability of attacks on the life and/or physical, psychological, or sexual integrity of the victim, or against people in their family or social environment." Cfr. Expert opinion from Daniela Kravetz given at the public hearing held on March 15, 22, and 23, 2021 within the framework of the 140th regular sessions and submitted in writing (merits file, folio 1104).

<sup>211</sup> Cf. Statement by Jorge Enrique Cardona Álzate given during the public hearing held on March 15, 22, and 23 within the framework of the 140th regular sessions; and complaint filed by Jorge Enrique Cardona Álzate before the Office of the Attorney General of the Nation, May 26, 2000 (evidence file, folio 92). Also see sworn statement of Jineth Bedoya Lima, November 26, 2011 (evidence file, folio 804), and Statement made before a notary public by Ignacio Gómez Gómez, of March 8, 2021 (evidence file, folio 3995).

<sup>212</sup> Cf. Statement from Jineth Bedoya Lima given at the public hearing held on March 15, 22, and 23, 2021 within the framework of the 140th regular sessions; Complaint filed by Jorge Enrique Cardona Álzate before the Office of the Attorney General of the Nation, May 26, 2000 (evidence file, folio 92); and Fifth Criminal Court of the Bogotá Specialized Circuit, Judgment of February 24, 2016 (evidence file, folio 24052).

<sup>213</sup> Cf. Sworn statement given by Jorge Enrique Cardona Álzate before the Office of the Attorney General of the Nation, November 1, 2011 (evidence file, folio 17).

<sup>214</sup> Cf. Special Rapporteur for Freedom of Expression in the Americas, "Special Rapporteur for Freedom of Expression Repudiates Murder of Colombian journalist," Press Release no. 20/99, of December 8, 1999, available at:

<https://www.oas.org/en/iachr/expression/showarticle.asp?artID=9&ID=1>

<sup>215</sup> Cf. Constitutional Court of Colombia, Order 092 of 2008, of April 14, 2008 (evidence file, folio 430).

See also, "Access to Justice for women victims of sexual violence," Fifth Follow-up Report on order 092 of 2008 of the Constitutional Court (evidence file, folios 568 and following).

by the Constitutional Court of Colombia as "a common, widespread, systematic, and invisible practice in the context of the Colombian armed conflict ".<sup>216</sup> This context, in the Court's opinion, also constitutes an indicator of the predictability of the possible materialization of the threats, since Ms. Bedoya, in her capacity as a female journalist, was exposed to a specific situation of risk, of which the State should have been aware.

95. Therefore, the Court concludes that, in the instant case, the State was aware of the situation of real and imminent risk that Ms. Bedoya could be the target of an attack endangering her life or personal integrity. Furthermore, the Court notes that there is no record that the State evaluated what type of measures would be appropriate based on the specific risks and different forms of violence that Ms. Bedoya faced due to her profession and her gender, much less that it implemented specific measures aimed at providing her with adequate and effective protection, thus violating its duty to guarantee with regard to the rights to personal integrity and personal liberty.

96. Additionally, the Court observes that State agents knew ahead of time about Ms. Bedoya's visit to the La Modelo prison on May 25, 2000. This is made clear from the statement made by the guard at the prison entrance upon Ms. Bedoya's arrival, when he indicated that he did not have a permit in her name but that "he knew about her visit,"<sup>217</sup> a visit that was made with the prior acquiescence of police officers in days prior as they assessed the other threats received by both Ms. Bedoya and her coworkers. Added to the above is the relevant fact that Ms. Bedoya was conducting investigations at the La Modelo Prison into arms trafficking, the purchase and sale of hostages, and other human rights violations that were being committed from the prison<sup>218</sup> with the complicity of State agents.<sup>219</sup>

97. In addition, the Court highlights that the kidnapping was perpetrated at the gates of a prison, where, in days prior, a deadly clash took place between paramilitaries and members of common criminal groups. In this regard, it is striking that there was no police presence at the entrance to the prison at the time of Ms. Bedoya's abduction, especially when it has been demonstrated that when the journalist and her coworkers arrived to the prison, a police patrol was stationed in the vicinity of the prison.<sup>220</sup> Added to the above are several testimonies that reinforce the thesis that the facts could not have occurred without the acquiescence or collaboration of the State. These include the statement of one of the perpetrators of the kidnapping, who said the police officers witnessed the kidnapping, "including the prison guard who attended her,"<sup>221</sup> and that the kidnapping had been

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<sup>216</sup> Cf. Constitutional Court of Colombia, Order 092 of 2008, of April 14, 2008 (evidence file, folio 434); also see ECOSOC. Commission on Human Rights, Report of the Special Rapporteur on violence against women, its causes and consequences, Ms. Radhika Coomaraswamy, presented pursuant to resolution 2001/49 of the Commission on Human Rights. E/CN.4/2002/83/Add.3. March 11, 2002, para. 42.

<sup>217</sup> Cf. Expansion of statement of Jineth Bedoya Lima, August 28, 2007 (evidence file, folio 405).

<sup>218</sup> Cf. Statement from Jineth Bedoya Lima given at the public hearing held on March 15, 22, and 23, 2021 within the framework of the 140th regular sessions.

<sup>219</sup> Cf. Statement from Jineth Bedoya Lima given at the public hearing held on March 15, 22, and 23, 2021 within the framework of the 140th regular sessions, in which she stated the following:

The reporting began at the end of 1997. Initially, I did it from the station where I worked—RCN Radio—and later, when I started working with *El Espectador*, we began to publish articles on the human rights violations committed by the armed groups inside the prison, unfortunately with the complicity of State agents, meaning members of the army and especially the police. More than 50 articles were published between 1999 and 2000.

<sup>220</sup> In this regard, Ms. Bedoya reported that on the way to the house near the jail they passed "in front of a police patrol that at that time provided security at the jail" Cf. Statement from Jineth Bedoya Lima given at the public hearing held on March 15, 22, and 23 within the framework of the 140th regular sessions. Likewise, witness Jorge Enrique Cardona Álzate stated that there was a "police vehicle located kitty-corner to the entrance door to the prison." Cf. Sworn statement given by Jorge Enrique Cardona Álzate before the Office of the Attorney General of the Nation, November 1, 2011 (evidence file, folio 23).

<sup>221</sup> Cf. Investigation procedure rendered by Mr. Alejandro Cárdenas Orozco before the 49th Specialized Prosecutor's Office, of February 6, 2012 (evidence file, folio 820).

planned together with a Police General.<sup>222</sup> There is also the statement of another of the perpetrators of the kidnapping who stated that one of the masterminds behind the kidnapping had met with the Police to plan it.<sup>223</sup> Additionally, the Court highlights the statements of Ms. Bedoya to the effect that there were "uniformed men" who participated in her kidnapping.<sup>224</sup>

98. In sum, after analyzing the arguments of the parties and the Commission, as well as the evidence provided to the Court, the Court notes the existence of serious, specific, and consistent evidence of State participation in the facts of May 25, 2000, including: a) the delays in allowing Ms. Bedoya access to the prison, together with the strange attitude of the guard at the entrance, who left Ms. Bedoya alone at the door at the time of the kidnapping, despite the fact he was aware of her visit; b) the prior acquiescence of the Police to the visit—that is, the Police were fully aware of Ms. Bedoya was at the prison door at that point in time; c) the fact that every prison door would logically be a place that is particularly heavily guarded, especially in the days following an act of singular violence within the prison; and d) the presence of a patrol at the prison entrance and of uniformed individuals during the kidnapping, as Ms. Bedoya indicated. This evidence is even more serious considering that the victim had been investigating crimes committed in a context of organized crime with the intervention of officials that involved kidnappings and transfer of hostages.

99. All of the foregoing leads this Court to the conclusion that the State is internationally responsible, in breach of its duty to respect, for the interception and kidnapping of Ms. Bedoya on May 25, 2000, in violation of Article 7 of the American Convention, in relation to Article 1(1) thereof and articles 7(a) and 7(b) of the Convention of Belém do Pará.

100. Additionally, the Court notes that, while Ms. Bedoya was kidnapped, she was subjected to serious verbal and physical attacks, and was also raped by her kidnappers. Although Article 5(1) of the Convention establishes the general terms of the right to personal integrity—both physical, mental and moral—Article 5(2) establishes, more specifically, the absolute prohibition of subjecting someone to torture or to cruel, inhuman, or degrading punishment or treatment. This Court has indicated that the violation of a person's right to physical and psychological integrity has different connotations of degree and ranges from torture to other types of humiliation or cruel, inhuman or degrading treatment, the physical and psychological aftereffects of which vary in intensity based on factors that are endogenous and exogenous to the individual (such as duration of the treatment, age, sex, health, context and vulnerability) that must be analyzed in each specific situation.<sup>225</sup> The Court recalls that the absolute prohibition of torture, both physical and psychological, is currently part of the domain of the international *jus cogens*.<sup>226</sup>

101. Regarding sexual violence and rape, this Court's case law has recognized that these forms of sexual violence can constitute cruel, inhuman or degrading treatment, and even acts of torture if the

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<sup>222</sup> Cf. Certification of copies of the Alejandro Cárdenas Orozco's account of September 12, 2011. File 807, Volume 8 (evidence file, folio 43901).

<sup>223</sup> Cf. Preliminary statement of Jesús Emiro Pereira Rivera, of December 12, 2011. File number 807, Volume 9 (evidence file, folio 44267 to 44270). Also see Report No. 571005 on the interview with Oscar Mauricio Tarazona González, dated November 12, 2010. File number 807, Volume 4 (evidence file, folios 42746 to 42747), and Preliminary statement of A.L., of February 27, 2015, ad. 807, Volume 9, (evidence file, folios 1209 and 1210).

<sup>224</sup> Cf. Statement from Jineth Bedoya Lima given at the public hearing held on March 15, 22, and 23, 2021 within the framework of the 140th regular sessions.

<sup>225</sup> Cf. *Case of Loayza Tamayo v. Peru. Merits*. Judgment of December 17, 1997. Series C No. 33, para. 57, and *Case of Azul Rojas Marín et al. v. Peru. Preliminary Objections, Merits, Reparations, and Costs*. Judgment of March 12, 2020. Series C No. 402, para. 159.

<sup>226</sup> Cf. *Case of Maritza Urrutia v. Guatemala. Merits, Reparations, and Costs*. Judgment of November 27, 2003. Series C No. 103, para. 92, and *Case of Azul Rojas Marín et al. v. Peru*, *supra*, para. 140.

elements of the definition are present.<sup>227</sup> The European Court of Human Rights,<sup>228</sup> the Human Rights Committee,<sup>229</sup> the Committee against Torture,<sup>230</sup> the Committee on the Elimination of Discrimination against Women,<sup>231</sup> and the United Nations Rapporteur against Torture<sup>232</sup> have all indicated likewise. Because Article 5(2) of the American Convention does not specify what should be understood as "torture," the Court has resorted to both Article 2 of the ICPPT<sup>233</sup> and other definitions contained in the international instruments prohibiting torture<sup>234</sup> to arrive at the elements constitutive of torture.<sup>235</sup> Based on these instruments, it has determined that torture is present when the ill-treatment: (i) is intentional; (ii) causes severe physical or mental suffering, and (iii) is committed with any objective or purpose.<sup>236</sup>

102. Regarding analysis of this case, based on the evidence, the Court finds that the seriousness and intensity of the severe physical, verbal, psychological, and sexual abuse suffered by Ms. Bedoya, perpetrated without interruption over the course of approximately 10 hours while she was in a state of total defenselessness, tied up and under the control of her attackers, is proven.<sup>237</sup> It likewise has been established that she was subjected to rape by multiple perpetrators, an exceedingly traumatic experience that has severe consequences and causes great psychological and physical damage that leaves the victim "physically and emotionally humiliated."<sup>238</sup> Along these lines, the Court has

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<sup>227</sup> Cf. *Case of Penal Miguel Castro Castro v. Peru*, *supra*, para. 312; and *Case of Azul Rojas Marín et al. v. Peru*, *supra*, para. 160.

<sup>228</sup> Cf. ECHR, *Aydin v. Turkey* [GS], No. 23178/94. Judgment of September 25, 1997, para. 86. Likewise, the European Court has ruled on the positive obligations derived from article 3 of the European Convention (Prohibition of torture) in cases of rape and sexual abuse. Cf., among others, ECHR, *M.C. v. Bulgaria*, no. 39272/98. Judgment of December 4, 2003, para. 153, and ECHR, *I.C. v. Romania*, No. 36934/08. Judgment of May 24, 2016, para. 52.

<sup>229</sup> Cf. UN Human Rights Committee, General Comment 28, The equality of rights between men and women, HRI/GEN/1/Rev.7, 2000, paras. 11 and 20.

<sup>230</sup> Cf. Committee against Torture, General Comment No. 2, Implementation of article 2 by States parties, CAT/C/GC/2, January 24, 2008, para. 18.

<sup>231</sup> Cf. UN, Committee on the Elimination of Discrimination against Women, General Recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19, CEDAW/C/GC/35, July 26, 2017, para. 16. "Gender-based violence against women may amount to torture or cruel, inhuman or degrading treatment in certain circumstances, including in cases of rape, domestic violence or harmful practices."

<sup>232</sup> Cf. UN, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, *Manfred Nowak*, A/HRC/7/3, January 15, 2008, paras. 28 to 31, and Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, *Juan E. Méndez*, A/HRC/31/57, January 5, 2016, para. 51.

<sup>233</sup> Article 2 of the ICPPT establishes, in its pertinent part, that: "For the purposes of this Convention, torture shall be understood to be any act intentionally performed whereby physical or mental pain or suffering is inflicted on a person for purposes of criminal investigation, as a means of intimidation, as personal punishment, as a preventive measure, as a penalty, or for any other purpose [...]."

<sup>234</sup> Especially Article 1 of the United Nations Convention against Torture and Other Cruel, Inhuman, or Degrading Punishment, which establishes the following:

1. For the purposes of this Convention, the term "torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.
2. This article is without prejudice to any international instrument or national legislation which does or may contain provisions of wider application.

<sup>235</sup> Cf. *Case of Bueno Alves v. Argentina. Merits, Reparations, and Costs*. Judgment of May 11, 2007. Series C No. 164, paras. 78 and 79, and *Case of Lopez Soto et al. v. Venezuela*, *supra*, para. 189.

<sup>236</sup> Cf. *Case of Bueno Alves v. Argentina*, *supra*, para. 79, and *Case of López Soto et al. v. Venezuela*, *supra*, para. 186.

<sup>237</sup> Cf. *Case of López Soto et al. v. Venezuela*, *supra*, para. 187.

<sup>238</sup> Cf. *Case of Miguel Castro Castro Prison v. Peru*, *supra*, para. 311, and *Case of López Soto et al. v. Venezuela*, *supra*,

highlighted the transcendental role that discrimination plays when analyzing violations of women's human rights and how it is expressed through torture and abuse from a gender perspective.<sup>239</sup> In this regard, the Court finds that her status as a woman exposed her to a specific and differentiated risk that materialized in the aforementioned rape. Added to all this is the fact that Ms. Bedoya came to believe "they were going to kill her at any moment,"<sup>240</sup> which undoubtedly caused a significant degree of distress. For this Court, it is clear that all the acts of violence to which Ms. Bedoya was subjected caused her great suffering and anguish, resulting in, among other things, the development of post-traumatic stress disorder with "symptoms both acute and chronic"<sup>241</sup> leaving her "irreparably changed."<sup>242</sup>

103. Additionally, it appears from the evidence received that the aggressors' aim was to punish her for her journalistic activity. Indeed, the Court notes that all during the kidnapping, Ms. Bedoya was verbally attacked on numerous occasions, with the aggressors making explicit reference to her membership in the journalism profession, saying things like "piece of shit journalists who have fucked up this country, it's your fault the country is like this," saying journalists were "paid by the guerrillas"<sup>243</sup> and that they were going to "teach them a lesson so they quit fucking around and destroying the country."<sup>244</sup> When the journalist asked them who had sent them, one of them told her that "they had been sent to clean up all the bullshit from the media."<sup>245</sup> In view of the foregoing, the Court finds that the kidnapping and subsequent acts of violence directed against Ms. Bedoya were intentional and had the clear purpose of punishing, intimidating, and, in short, silencing her journalism.

104. The Court therefore finds that Ms. Bedoya was subjected to acts of physical, sexual, and psychological torture that could not have been carried out without the acquiescence and collaboration of the State, or at least with its tolerance. Consequently, in line with its settled case law on the matter,<sup>246</sup> the Court finds that the State also violated articles 5(2) and 11 of the American Convention, in relation to the obligations contained in Article 1(1) of the same instrument, articles 7(a) and 7(b) of the Convention of Belém do Pará, and articles 1 and 6 of the ICPPT.

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para. 186.

<sup>239</sup> Cf. *Case of I.V. v. Bolivia. Preliminary Objections, Merits, Reparations, and Costs*. Judgment dated November 30, 2016. Series C No. 329, para. 263, citing the UN, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez, A/HRC/31/57, January 5, 2016, paras. 5 and 9, and *Case of Lopez Soto et al. v. Venezuela*, *supra*, para. 188.

<sup>240</sup> Cf. Expansion of statement made by Jineth Bedoya Lima before the Office of the Attorney General of the Nation, May 30, 2000 (evidence file, folio 109).

<sup>241</sup> Cf. Fifth Criminal Court of the Bogotá Specialized Circuit, Judgment of February 24, 2016 (evidence file, folio 24062).

<sup>242</sup> Cf. Expert opinion given before a notary public by Jairo Enrique Cortes Pinzón, March 5, 2021 (evidence file, folio 40048).

<sup>243</sup> Cf. Expansion of statement made by Jineth Bedoya Lima before the Office of the Attorney General of the Nation, May 30, 2000 (evidence file, folio 101).

<sup>244</sup> Cf. Expansion of statement made by Jineth Bedoya Lima before the Office of the Attorney General of the Nation, May 30, 2000 (evidence file, folio 104).

<sup>245</sup> Cf. Expansion of statement made by Jineth Bedoya Lima before the Office of the Attorney General of the Nation, May 30, 2000 (evidence file, folio 102).

<sup>246</sup> The Court recalls that, in cases involving some form of sexual violence, it has been specified that violations of personal integrity involve impact on the private lives of persons, protected by Article 11 of the Convention, which covers persons sex lives or sexuality. Thus, sexual violence violates essential values and aspects of a person's privacy, amounting to an intrusion in their sexual life and an annulment of their right to decide freely with whom to have intimate relations, causing them to lose total control over these most personal and intimate decisions, and over their basic bodily functions. Cf. *Case of Fernández Ortega et al. v. Mexico. Preliminary Objections, Merits, Reparations, and Costs*. Judgment of August 30, 2010. Series C No. 215, para. 129; *Case of J. v. Peru. Preliminary Objections, Merits, Reparations, and Costs*. Judgment of November 27, 2013. Series C No. 275, para. 367, and *Case of Women Victims of Sexual Torture in Atenco v. Mexico. Preliminary Objections, Merits, Reparations, and Costs*. Judgment of November 28, 2018. Series C No. 371, para. 179.

105. Therefore, based on all the foregoing, the Court concludes that the State is internationally responsible, in breach of its obligations to respect and guarantee, for the interception and kidnapping of Ms. Bedoya on May 25, 2000, which entailed a violation of her rights to personal integrity and personal liberty, recognized in articles 5(1) and 7 of the American Convention, in relation to the obligations established in Article 1(1) of the same instrument, as well as Article 7(a) and 7(b) of the Convention of Belém do Pará. The State is also responsible for the acts of torture to which Ms. Bedoya was subjected, in violation of articles 5(2) and 11 of the American Convention, in relation to the obligations contained in Article 1(1) of the same instrument, articles 7(a) and 7(b) of the Convention of Belém do Pará, and articles 1 and 6 of the ICPPT.

*b.2 The State's international responsibility for the violation of Ms. Bedoya's right to freedom of thought and expression*

106. The case law of the Court has given broad content to the right to freedom of thought and expression enshrined in Article 13 of the Convention. Thus, the Court has indicated that the provision protects the right to seek and receive ideas and information of all kinds, as well as to know and receive information and ideas disseminated by others.<sup>247</sup> It has also indicated that freedom of thought and expression has both an individual dimension and a social dimension and, thus, has concluded that a series of rights are protected under this article.<sup>248</sup> The Court has stated that both dimensions are equally important and must be fully guaranteed simultaneously in order to provide full effect to the right to freedom of thought expression in the terms of Article 13 of the Convention.<sup>249</sup>

107. The Court has also underscored that the practice of professional journalism "cannot be differentiated from freedom of expression. On the contrary, both are obviously intertwined, for the professional journalist is not, nor can he be, anything but someone who has decided to exercise freedom of expression in a continuous, regular and paid manner."<sup>250</sup> The Court notes that for the media to be able to carry out its role of providing journalistic oversight, it must not only be free to impart information and ideas of public interest, but also be free to gather, collect, and evaluate such information and ideas. In his 2012 report to the United Nations Human Rights Council, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression referred to the fact that people who engage in journalism "observe and describe events, document and analyse events, statements, policies, and any propositions that can affect society, with the purpose of systematizing such information and gathering of facts and analyses to inform sectors of society or society as a whole."<sup>251</sup> This means that any measure that interferes with the journalistic activities of people playing this role will inevitably obstruct the right to freedom of expression in its individual and collective dimensions. The Court will therefore proceed to analyze the two dimensions of freedom of thought and expression and how they were impacted by the aforementioned events that occurred on May 25, 2000.

108. Regarding what happened in the instant case, the Court deems it necessary to recall that on

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<sup>247</sup> Cf. *The compulsory licensing of journalists*. (Arts. 13, and 29 of the American Convention on Human Rights. Advisory Opinion OC-5/85 of November 13, 1985. Series A No. 5, para. 30; and *Case of Grijalva Good v. Ecuador*, *supra*, para. 152.

<sup>248</sup> Cf. *Case of "The Last Temptation of Christ" (Olmedo Bustos et al.) v. Chile. Merits, Reparations and Costs*. Judgment dated February 5, 2001. Series C No. 73, para. 74; and *Case of Grijalva Good v. Ecuador*, *supra*, para. 152.

<sup>249</sup> Cf. *Case of Ivcher Bronstein v. Peru. Merits, Reparations, and Costs*. Judgment of February 6, 2001. Series C No. 74, para. 149; and *Case of Grijalva Good v. Ecuador*, *supra*, para. 152.

<sup>250</sup> Cf. Advisory Opinion OC-5/85, *supra*, paras. 72 to 74, and *Case of Carvajal Carvajal et al. v. Colombia*, *supra*, para. 173.

<sup>251</sup> Cf. United Nations Human Rights Council, Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, A/HRC/20/17, paras. 3 and 4.

May 25, 2000, Ms. Bedoya was intercepted, kidnapped, and subjected to numerous physical, sexual, and verbal assaults, all while she was engaging in her journalism work. Likewise, in the previous section, the Court has found it proven that the attacks had a clear connection with her journalism activity and were intended to punish, intimidate, and silence her (*supra* para. 103).

109. Regarding the *individual* dimension of the right to freedom of thought and expression, the Court recalls that this includes the right to use any appropriate means to disseminate opinions, ideas, and information and make it reach the largest number of recipients.<sup>252</sup> In this case, the Court reiterates that the attacks and violence to which Ms. Bedoya was subjected on May 25, 2000 were due to her profession as a journalist. Likewise, the Office of the Public Prosecutor of the Nation itself indicated on several occasions the connection of the attacks to her profession as a journalist.<sup>253</sup> The Court therefore concludes that this attack was intended to single out this journalist for punishment and intimidation and thus impact the individual dimension of her right to freedom of expression.

110. Not only did the attacks on Ms. Bedoya and the violations of her freedom of expression have an individual impact on her, they also had a collective impact, both on Colombian society in terms of people's right to information and on her fellow journalists when it came to doing their own work. This is where the second dimension of the right to freedom of expression comes into play—that is, the social dimension, regarding which the Court has indicated that it also includes the right of everyone to hear opinions, stories, and news from third parties.<sup>254</sup>

111. The Court notes, firstly, that Ms. Bedoya covered matters of great public interest, such as the alleged arms trafficking, the alleged purchase and sale of hostages, and other human rights violations that were being committed in the La Modelo Prison.<sup>255</sup> In this regard, the Court has emphasized that freedom of expression, particularly in matters of public interest, "is a cornerstone of the very existence of a democratic society." Without an effective guarantee of freedom of expression the democratic system is weakened and there is a breakdown of pluralism and tolerance; the mechanisms of control and complaint that citizens have may become inoperable and, indeed, a fertile ground is created for authoritarian systems to take root.<sup>256</sup>

112. Likewise, the Court's case law has addressed this impact on the victims of violence and on other journalists who could reasonably fear that this type of human rights violation will be repeated and, as a consequence, self-censor their work.<sup>257</sup> But also, the Court observes that the consequences of the social impact of this violation were differentiated due to the fact that the person attacked was a female journalist. Thus, as indicated by Ms. Bedoya before this Court, following the events of May 25, 2000 there were:

Many cases hushed up, situations of fellow female journalists who had to face things similar to what happened to me, but as the armed conflict mutated and changed, intimidation against women journalists without question became more common, especially persecution of them and discrediting their work for being women.<sup>258</sup>

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<sup>252</sup> Cf. *Case of Ivcher Bronstein v. Peru*, *supra*, para. 147, *Case of Carvajal Carvajal et al. v. Colombia*, *supra*, para. 172.

<sup>253</sup> Cf. Office of the Attorney General of the Nation, Resolution of June 6, 2000 (evidence file, folio 155).

<sup>254</sup> Cf. *Case of Ivcher Bronstein v. Peru*, *supra*, para. 148, and *Case of Carvajal Carvajal et al. v. Colombia*, *supra*, para. 172.

<sup>255</sup> Cf. Statement from Jineth Bedoya Lima given at the public hearing held on March 15, 22, and 23, 2021 within the framework of the 140th regular sessions.

<sup>256</sup> Cf. Advisory Opinion OC-5/85 para. 70, and *Case of Carvajal Carvajal et al. v. Colombia*, *supra*, para. 174.

<sup>257</sup> Cf. *Case of Vélez Restrepo and Family v. Colombia*, *supra*, para. 212.

<sup>258</sup> Cf. Statement from Jineth Bedoya Lima given at the public hearing held on March 15, 22, and 23, 2021 within the framework of the 140th regular sessions.

113. In sum, another consequence of the intimidating effect of the facts described in this section is that the public loses relevant voices and points of view, women's voices and points of view in particular,<sup>259</sup> which, in turn, leads to a widening of the gender gap in the journalism profession and attacks pluralism as an essential element of freedom of expression and democracy.<sup>260</sup> This is especially relevant in the context of the region (at the time of the events and currently) in view—in the words of the Commission's Office of the Special Rapporteur for Freedom of Expression—of the existence of a "widespread phenomenon of the exclusion of women from public life" and "low participation of women in the media agenda."<sup>261</sup> Furthermore, the Court wishes to highlight the importance of the necessary plurality of the media, since, as the witness Catalina Botero stated, "by silencing women journalists, the stories are silenced that are usually only told by women."<sup>262</sup>

114. Based on the foregoing, the Court concludes that Colombia violated the obligation to respect and guarantee Ms. Bedoya's right to freedom of thought and expression, enshrined in Article 13 of the American Convention, in relation to Article 1(1) of that treaty.

#### *b.3 Conclusion*

115. By virtue of the analysis and considerations set forth in this chapter, the Court concludes that the State is responsible for the violation of articles 5(1) and 7 of the American Convention, in relation to the obligations contained in Article 1(1) of the same instrument, and articles 7(a) and 7(b) of the Convention of Belém do Pará. The State is also responsible for the violation of Articles 5(2) and 11 of the American Convention, in relation to the obligations contained in Article 1(1) of the same instrument, articles 7(a) and 7(b) of the Convention of Belém do Pará, and the articles 1 and 6 of the ICPP for the sexual violence to which Ms. Bedoya was subjected. These violations also impacted Ms. Bedoya's right to freedom of thought and expression, for which reason the State is responsible for the violation of Article 13 of the American Convention, in relation to the obligations set forth in Article 1(1) of the same instrument.

#### *b.4 Other violations of the American Convention alleged by the Commission and the representatives*

116. With respect to the alleged violation of articles 4 and 24 of the Convention indicated by the Commission, the Court observes that no arguments or corresponding probative support were offered for analysis of these violations. Regarding the representatives' argument that the aforementioned facts also entailed a violation of the right to defend human rights, the Court finds that the duty to guarantee this right is sufficiently addressed in the analysis carried out in this section through the rights declared violated.<sup>263</sup>

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<sup>259</sup> Cf. Statement made before a notary public by Catalina Botero Marino, of March 4, 2021 (evidence file, folio 39934).

<sup>260</sup> Cf. *Case of Granier et al. (RCTV) v. Venezuela. Preliminary Objections, Merits, Reparations, and Costs*. Judgment of June 22, 2015. Series C No. 293, para. 170.

<sup>261</sup> Cf. IACtHR, Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights. Women Journalists and Freedom of Expression: Discrimination and Gender-Based Violence Faced by Women Journalists in the Exercise of their Profession, OEA/SER.L/V/II CIDH/RELE/INF.20/18, October 31, 2018, para. 25. Likewise, according to witness Catalina Botero Marino, the "silencing effect" of violence directed at women journalists is "very powerful," since "few women dare to practice the journalism profession in contexts of widespread criminality, and those who do must face extraordinary risks and differentiated impacts." Cfr. Statement made before a notary public by Catalina Botero Marino, of March 4, 2021 (evidence file, folio 39934).

<sup>262</sup> Cf. Statement made before a notary public by Catalina Botero Marino, of March 4, 2021 (evidence file, folio 39934).

<sup>263</sup> Cf. *Case of Human Rights Defender et al. v. Guatemala. Preliminary Objections, Merits, Reparations, and Costs*. Judgment of August 28, 2014. Series C No. 283, para. 193.

## VIII - 2

### **RIGHTS TO JUDICIAL GUARANTEES, EQUAL PROTECTION, JUDICIAL PROTECTION, PERSONAL INTEGRITY AND THE RIGHT TO FREEDOM OF THOUGHT AND EXPRESSION<sup>264</sup>**

117. In this chapter, the Court will first analyze (i) the alleged violations emerging from the investigations and prosecutions related to the facts that took place on May 25, 2000, and, on the other, (ii) the violations emerging from the State's alleged failure to investigate, prosecute, and, eventually, punish the persons responsible for the threats directed against Ms. Bedoya both before May 25, 2000 and afterwards.

#### **A. Arguments of the parties and of the Commission**

##### *a.1 Regarding the facts that took place on May 25, 2000*

118. The **Commission** noted that, for 11 years, the Sixth Specialized Prosecutor's Office of the Human Rights and International Humanitarian Law Unit has been conducting the preliminary investigation without establishing the facts or identifying those responsible. It also pointed out that during these first 11 years of investigation, the information relevant for establishing the facts was provided by the victim based on what she was able to glean from her own sources, amounting to an "unacceptable procedural burden" for a victim of this type of crime. Additionally, it observed that the authorities in charge of the investigation in this case did not follow procedures that measured up to international standards on investigating crimes of sexual violence. It noted that the investigation was carried out based on sexist prejudices and discriminatory stereotypes against women, with the Office of the Public Prosecutor ordering an interview to establish whether the journalist was romantically involved with a lover who was a guerrilla fighter. Additionally, according to the Commission, the judicial case file reveals the existence of evidence from the start of the investigation that State agents may have participated as perpetrators of or accessories to the facts of May 25, 2000. However, the Office of the Public Prosecutor never seriously investigated this possibility. Lastly, the Commission indicated that the criminal proceeding did not comply with the requirement of a reasonable period of time for the investigation into the events of May 25, 2000, as it has lasted more than 18 years. In this regard, it noted that during the first 11 years, "the investigation was inactive for long periods of time and produced no results." It also indicated that despite the fact that three people had already been convicted as material perpetrators of the facts, the investigation remained open with regard to other perpetrators and masterminds, including an investigation into "the possible active or passive participation of State agents" in the aforementioned facts of May 25, 2000.

119. The Commission therefore concluded that the State violated the rights to judicial guarantees and judicial protection established in articles 8(1) and 25(1) of the American Convention, in relation to articles 1(1), 5(1), 5(2), 11, and 13 of the treaty; Article 7(b) of the Convention of Belém do Pará; and articles 1, 6, and 8 of the ICPPT, to the detriment of Ms. Bedoya.

120. The **representatives** agreed with the arguments of the Commission and added that the State had (i) made serious omissions in the early stages of the investigation; (ii) committed acts of discrimination and used stereotypes throughout the process; (iii) forced Ms. Bedoya to testify repeatedly and without justification under conditions that do not meet international standards; (iv) passed over the line of investigation related to the participation of State agents; and (v) unjustifiably delayed investigation of the facts without justification. They added that, to date, "there has not been a single conviction that attributes responsibility to those who are in the end responsible for ordering

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<sup>264</sup> Articles 8(1), 24, 25, 5, and 13 of the American Convention on Human Rights, as well as articles 1, 6, and 8 of the ICPPT and Article 7(b) of the Convention of Belém do Pará.

the violations" and that the conviction of "only" three material perpetrators, more than a decade after the facts, is "clearly insufficient in light of the criminal plot involved in the facts of the case and Jineth Bedoya's reporting on the Modelo National Prison." They added that this amounted to a violation of Article 24 of the American Convention, since the process was afflicted by gender stereotypes and Ms. Bedoya suffered discriminatory treatment at the hands of State agents, affecting the investigation of the case. They argued this alleged lack of justice amounted to violation of Article 5 of the American Convention, in connection with Article 1 of the same international instrument, because of the suffering caused to Ms. Bedoya by the treatment she received when she arrived at the police support center, her public exposure to media cameras as she was transferred from Villavicencio to Bogotá, "the multiple occasions on which she was called to testify, several of them under unsuitable conditions," the loss of evidence, and the fact that to this day, some of the perpetrators remain in impunity.

121. The **State** argued that it had complied with the international obligation to investigate, prosecute, and punish those responsible for the facts of May 25, 2000 with due diligence and within a reasonable amount of time. It added that the authorities in charge of the investigation carried out a diligent investigation that included "adequate gathering of evidence" with a view to clarifying the facts and identifying those responsible, ordering all the evidentiary procedures necessary to clarify the facts, as well as complying with international standards on the investigation of crimes of sexual violence. It specified that the medical authorities carried out all the examinations necessary based on the injuries suffered by the journalist. It also indicated that the line of investigation related to Ms. Bedoya's journalism activities was pursued. Regarding the line of investigation related to the possible participation of State agents, it argued that the judicial authorities investigated the possible participation of State agents "seriously and diligently" and that the hypothesis "could not be consolidated" since no evidentiary support was found. Regarding the violation of the right to equality, the State alleged that the Commission did not provide "even preliminary information on the existence of a discriminatory legal provision, nor did it provide evidence of discriminatory treatment in the application of any law, resolution, or action of any authority," and indicated that "there are not nor has it been proven that the State acted pursuant to the bias of gender stereotypes in the investigation." The State indicated that, as a result of the investigation of the facts, thus far three of the material perpetrators of the facts have been convicted. It added that it had already punished the torture domestically, so there are no additional elements for attributing international responsibility for the alleged non-observance of articles 1, 6, and 8 of the ICPPT. Lastly, it rejected the allegations that the procedure had not complied with the reasonable period of time, indicating that the case was "particularly complex," because of, among other reasons, the particular difficulty of collecting evidence in a case of sexual violence, as well as the fact that the events took place in the context of a domestic armed conflict.

#### *a.2 Regarding the threats received before and after the facts of May 25, 2000*

122. The **Commission** indicated that Ms. Bedoya was the victim of constant threats prior to her abduction on May 25, 2000, and that they were known to State authorities. It said it had no information on the opening of criminal investigations intended to identify the source of the threats or that they had been linked. It added that the State was not able to neutralize the journalist's risk through diligent investigations, nor determine the possible perpetrators and motives behind the threats, which could have contributed to determining possible perpetrators of the acts of violence that took place outside the La Modelo Prison and that "only recently did the State reopen five of these investigations and combine them, so far without determining the origin of the threats or those responsible for them, thereby perpetrating impunity and the continuation off the threats."

123. The **representatives** added that, "more than 20 years after the initial threats were received, none of the perpetrators have been identified, let alone sanctioned" and that the State "has not adopted real and effective measures to end the situation of risk" facing Ms. Bedoya. It also added

that "as a result of a lack of diligent investigation, the threats continue to go unpunished." They also indicated that these threats qualified as torture and that the State was responsible for them. In this regard, they specified that "the continuation of the threats over more than two decades in complete impunity amounts to acts of torture against the victims, as they have had serious impacts on the mental integrity of the victims and were carried out with the intention of causing harm to, silencing, and intimidating" Ms. Bedoya. They therefore concluded that the State is responsible for the violation of the right to personal integrity protected by Article 5 of the American Convention and the rights to judicial guarantees and judicial protection contained in articles 8 and 25 of the American Convention, in accordance with the duties set forth in Article 1(1) of the Convention, as well as for the violation of articles 1, 6 and 8 of the ICPPPT. Additionally, they indicated that these facts also represented a violation of Ms. Bedoya's right to freedom of expression, since the threats made against her over the years "have also been aimed at silencing her voice" and the State has to this point taken a stance of "omission," which prevented Ms. Bedoya from practicing journalism safely over the last 20 years, a time during which she has been exposed to "constant threats, risking her life and integrity for the sole fact of practicing journalism." They additionally argued that the State was responsible for the violation of Ms. Bedoya's right to defend human rights, since all the facts suffered by Ms. Bedoya took place as a result of the human rights defense work that she was doing and continues to do, amounting to violation of Articles 13, 8, and 25 of the American Convention, in conjunction with breach of the obligations contained in Article 1(1) of the same instrument.

124. The **State**, for its part, recognized the lack of due diligence in the investigation of threats against Ms. Bedoya from the moment it became aware of them, which included the lack of a specific investigation into the attack on Ms. Bedoya and her mother on May 27, 1999.

## **B. Considerations of the Court**

### *b.1 Regarding the facts of May 25, 2000*

#### *b.1.1 Lack of due diligence*

125. The Court has established that, under the American Convention, States Parties have an obligation to provide effective judicial remedies to victims of human rights violations (Article 25). Such remedies must be substantiated in accordance with the rules of due process of law (Article 8(1)), all in keeping with the general obligation of States to guarantee the free and full exercise of the rights recognized by the Convention to all persons subject to their jurisdiction (Article 1(1)).<sup>265</sup>

126. The Court also finds that, when investigating incidents of violence against women journalists, the duty of due diligence must be subjected to strict scrutiny for two reasons. First, because the States have a positive obligation to guarantee freedom of expression and to protect people who, because of their profession, are in a special situation of risk when exercising this right.<sup>266</sup> Second, because this duty also entails an enhanced standard of due diligence when it comes to preventing gender-based violence and protecting women from it.<sup>267</sup> This must be taken into account from the

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<sup>265</sup> Cf. *Case of Velásquez Rodríguez v. Honduras. Preliminary Objections*. Judgment June 26, 1987. Series C No. 1, para. 91, and *Case of Guerrero, Molina et al. v. Venezuela. Merits, Reparations, and Costs*. Judgment of June 3, 2021. Series C No. 424, para. 136.

<sup>266</sup> The Court has emphasized that freedom of expression, particularly in matters of public interest, "is a cornerstone of the very existence of a democratic society," such that "Without an effective guarantee of freedom of expression the democratic systems is weakened and there is a breakdown of pluralism and tolerance; the mechanisms of control and complaint that citizens have may become inoperable and, indeed, a fertile ground is created for authoritarian systems to take root." Cf. Advisory Opinion OC-5/85 para. 70, and *Case of Carvajal Carvajal et al. v. Colombia*, *supra*, para. 174.

<sup>267</sup> Cf. *Case of González et al. ("Cotton Field") v. Mexico*, *supra*, para. 358, and *Case of López Soto et al. v. Venezuela*,

beginning of an investigation of violent acts against women in the context of their journalism work and entails the obligation to identify and investigate, with due diligence, the special and differentiated risks faced by women journalists due to their profession and their gender,<sup>268</sup> as well as the factors that increase their likelihood of becoming victims of violence.<sup>269</sup> Along with this, investigators are required to assume, from the start of their investigation, that the incidents of violence are related to the victim's journalism work.<sup>270</sup> In sum, the Court views it as essential to emphasize that when investigating acts of violence directed against women journalists, States have the obligation to adopt all measures necessary to pursue the investigation from an intersectional perspective that takes into account these intersecting vulnerabilities affecting the person in question and that, in turn, require or add to the enhanced diligence.

127. In this case, the Court has determined that the facts suffered by Ms. Bedoya on May 25, 2000 involve a number of human rights violations that, in addition to amounting to violations of personal integrity, personal liberty, freedom of expression, and dignity, are also classified as acts of torture. Therefore, when addressing the obligation to investigate, it is necessary to take into account the investigation criteria developed by this Court for these different areas to ensure the investigations and criminal proceedings initiated are pursued with due diligence.<sup>271</sup>

128. Regarding the collection and preservation of evidence, this Court recalls that it is within the scope of its competence—coadjuvant and complementary—to review the procedures in the domestic investigation,<sup>272</sup> which may lead to the finding of due diligence shortcomings.<sup>273</sup> However, this is only applicable when there is evidence that the alleged shortcomings could have affected the investigation as a whole, such that "as time passes, the possibility of collecting and presenting evidence in order to clarify the facts and determine the corresponding responsibilities is unduly limited."<sup>274</sup>

129. The Court notes first that in this case, there were certain shortcomings in the diligent collection of evidence. An example of this is the request, more than seven years after the facts, for footage from the prison,<sup>275</sup> or the request for the list of the guards on duty in the prison on the day of the

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*supra*, para. 209.

<sup>268</sup> Cf. Expert opinion from Daniela Kravetz given at the public hearing held on March 15, 22, and 23, 2021 within the framework of the 140th regular sessions, and Report of the United Nations Special Rapporteur on violence against women, its causes and consequences, Combating violence against women journalists, A/HRC/44/52, May 6, 2020, para. 84.

<sup>269</sup> The United Nations Special Rapporteur on violence against women, its causes and consequences, in her report "Combating violence against women journalists" A/HRC/44/52 of May 6, 2020, concluded and recommended that States "Address factors that increase the likelihood of violence and harassment in the world of work for women journalists, including discrimination, abuse of power relations and cultural and social norms that support violence and harassment, and create internal mechanisms against sexual harassment in the workplace." Also see: United Nations Committee on the Elimination of Discrimination against Women, General Recommendation No. 30 on women in conflict prevention, conflict and post-conflict situations, CEDAW/C/GC/30, of November 1, 2013, para. 17.

<sup>270</sup> Cf. Expert opinion from Daniela Kravetz given at the public hearing held on March 15, 22, and 23, 2021 within the framework of the 140th regular sessions and submitted in writing (merits file, folio 1100). Also see: ECHR, Case of *Mazepa et al. v. Russia*, No. 15086/07, Judgment of July 17, 2018, para. 73.

<sup>271</sup> Cf. Case of González *et al.* ("Cotton Field") v. Mexico, *supra*, para. 455, and Case of López Soto *et al.* v. Venezuela, *supra*, para. 219.

<sup>272</sup> Cf. Case of the "Street Children" (Villagrán-Morales *et al.*) v. Guatemala. Merits. Judgment of November 19, 1999. Series C No. 63, para. 222, and Case of Díaz Loreto *et al.* v. Venezuela. Preliminary Objections, Merits, Reparations, and Costs. Judgment dated November 19, 2019. Series C No. 392, para. 103.

<sup>273</sup> Cf. Case of Yarce *et al.* v. Colombia, *supra*, para. 282, and Case of Díaz Loreto *et al.* v. Venezuela, *supra*, para. 103.

<sup>274</sup> Cf. Case of Ibsen Cárdenas and Ibsen Peña v. Bolivia. Merits, Reparations, and Costs. Judgment of September 1, 2010. Series C No. 217, para. 172, and Case of Arrom Suhurt *et al.* v. Paraguay. Merits. Judgment of May 13, 2019. Series C No. 377, para. 143.

<sup>275</sup> Cf. Office of the Attorney General of the Nation, Resolution of September 15, 2007 (evidence file, folio 410); and Office of the Attorney General of the Nation, Resolution of August 21, 2008 (evidence file, folio 416).

facts<sup>276</sup> made 10 years after they took place. The Court also notes that there is no record of any steps taken to identify evidence on the clothing worn by Ms. Bedoya on the day of the facts, given that—as alleged by the representatives and the Commission, and not disputed by the State—the clothing had been lost.<sup>277</sup> This is of particular relevance in criminal investigations into sexual violence, where it is essential for the investigative actions to be documented and coordinated and the evidence handled and preserved diligently, taking sufficient samples and conducting tests to determine the possible perpetrator of the act, while securing other evidence such as the victim's clothes, investigating promptly the scene of the facts, and ensuring the proper chain of custody.<sup>278</sup>

130. These types of deficiencies were also verified along with others by the 19th Criminal Judicial Procurator's Office, which in 2011, through an official letter addressed to the Specialized Prosecutor's Office 49 of the UNDH, ordered referral of the actions of Specialized Prosecutor 6's actions in the case to criminal and disciplinary justice for investigation in connection with "omission of facts recorded in the criminal proceeding carried out with regard to the heinous facts of which Ms. Bedoya Lima was a victim", noting that "the incoherent, disjointed, and torpid actions [...] are without doubt what has called into question the honorable work of administering justice."<sup>279</sup>

131. Likewise, the Court confirms that it was Ms. Bedoya herself who had to take steps on her own to investigate the facts.<sup>280</sup> In fact, in 2010, the Office of the Public Prosecutor itself asked her if she had obtained any more information establishing who were the perpetrators of the facts.<sup>281</sup> This is corroborated by what was stated by the Criminal Judicial Procurator 19, which, in its official letter of February 29, 2011 highlighted the "serious and regrettable evidentiary shortcoming" that the burden of proof, which "rests with the State," had been transferred to the victim "to the detriment of her own dignity and in a way that was revictimizing."<sup>282</sup> This was, effectively, revictimizing for Ms. Bedoya, who at the hearing stated the following:

We journalists provided a variety of evidence, we provided the CTI of the Colombian Prosecutor's Office with recordings of people who gave testimony about who the perpetrators were, how they had obtained the weapons, how they had kidnapped me, but unfortunately all this evidence was lost, part of the file that was lost in the subsequent months [...]. Which seemed re-victimizing to me, because I wasn't the one who had to investigate. How was I supposed to investigate my own pain, my own tragedy?<sup>283</sup>

132. Lastly, the Court observes that, to date, it has not been possible to determine the masterminds

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<sup>276</sup> Cf. Office of the Attorney General of the Nation, Resolution of October 12, 2011 (evidence file, folio 794). This was also recognized by the State itself. Cf. Answering brief of March 16, 2020 (merits file, folio 562).

<sup>277</sup> Cf. Sworn statement of Jineth Bedoya Lima, November 26, 2011 (evidence file, folio 804); and Criminal Judicial Procurator 19, Official Letter No. D11 PJ19, of February 29, 2011 (evidence file, folio 1220).

<sup>278</sup> Cf. *Case of Fernández Ortega et al. v. Mexico*, *supra*, para. 194, and *Case of Women Victims of Sexual Torture in Atenco v. Mexico. Preliminary Objections, Merits, Reparations, and Costs*. Judgment of November 28, 2018. Series C No. 371, para. 272.

<sup>279</sup> Cf. Criminal Judicial Procurator 19, Official Letter No. D11 PJ19, of February 29, 2011 (evidence file, folios 1217 to 1221).

<sup>280</sup> Cf. Expansion of statement of Jineth Bedoya Lima, of May 22, 2003 (evidence file, folio 328 following); Expansion of statement of Jineth Bedoya Lima, August 28, 2007 (evidence file, folio 403); and statement from Jineth Bedoya Lima given at the public hearing held on March 15, 22, and 23, 2021 within the framework of the 140th regular sessions.

<sup>281</sup> Cf. Expansion of complaint of Jineth Bedoya Lima, August 11, 2010 (evidence file, folio 638).

<sup>282</sup> Cf. Office of the Attorney General of the Nation, Deputy Attorney Assigned to the Superior Court of the Judicial District of Bogotá D.C., Official Letter no. 01734, of March 25, 2015 (evidence file, folio 1223).

<sup>283</sup> Cf. Statement from Jineth Bedoya Lima given at the public hearing held on March 15, 22, and 23 within the framework of the 140th regular sessions.

behind the facts<sup>284</sup> or the identities of other co-perpetrators who may have participated in them. This Court recalls that the investigation of complex cases requires "direct[ing] the efforts of the State apparatus towards unraveling the structures that permitted these violations, the causes, the beneficiaries, and the consequences."<sup>285</sup> The Court notes that the representatives and the Commission have noted the existence of evidence of possible State participation in these facts and that, in the preceding chapter, it determined the State was responsible for breaching its duty to respect with regard to the facts of May 25, 2000. In this regard, the State has argued that Colombian courts continue to pursue criminal investigations into the aforementioned facts and that, specifically, it is currently pursuing a line of investigation seeking to determine whether State agents participated in the facts under analysis.<sup>286</sup> However, the Court observes that although more than 21 years have passed since the facts, this line of investigation remains open and has yet to yield any results.

133. Therefore, the Court concludes that based on the actions of the State's investigative and forensic authorities in charge of delivering justice in this specific case, the State of Colombia did not act with the enhanced due diligence required in the investigations and criminal proceedings related to the violence and torture suffered by Ms. Bedoya on May 25, 2000.

#### *b.1.2 Gender discrimination*

134. The Court recalls that in cases of violence against women, the general obligations established in Articles 8 and 25 of the American Convention are supplemented and enhanced for those States that are party to the Convention of Belém do Pará by the obligations derived from this specific inter-American treaty. Article 7(b) of this Convention specifically requires the States parties to apply due diligence to prevent, punish and eradicate violence against women. Thus, when an act of violence is committed against a woman, whether by a State agent or a private party, it is particularly important for the authorities in charge of the investigation to conduct it with determination and efficacy, taking into account their duty to society to reject violence against women and the State's obligation to eradicate it and ensure that victims have confidence in the institutions established by the State for their protection.<sup>287</sup>

135. Likewise, the Court has found in its settled case law that the criminal investigation must include a gender perspective and be conducted by officials trained in similar cases and in attending to victims of discrimination and gender-based violence.<sup>288</sup> The Court recalls that judicial ineffectiveness in individual cases of violence against women fosters an environment of impunity that facilitates and promotes the repetition of acts of violence in general and sends a message that violence against women can be tolerated and accepted, fostering the perpetuation and social acceptance of the phenomenon, the feeling and impression of insecurity among women, and persistent mistrust of the

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<sup>284</sup> During the public hearing, Ms. Bedoya stated as follows:

The investigation into the masterminds is completely dead, despite the fact that they have been named, there is evidence, there is testimony, and my attorneys have consistently asked for an investigation to be opened and responsibility established."

Cfr. Statement from Jineth Bedoya Lima given at the public hearing held on March 15, 22, and 23, 2021 within the framework of the 140th regular sessions.

<sup>285</sup> Cf. *Case of Rodríguez Vera et al. (the Disappeared from the Palace of Justice) v. Colombia*, *supra*, para. 500, and *Case of Isaza Uribe et al. v. Colombia. Merits, Reparations, and Costs*. Judgment of November 20, 2018. Series C No. 363, para. 153.

<sup>286</sup> Cf. Final arguments of the State presented on April 23, 2021 (merits file, folio 1551).

<sup>287</sup> Cf. *Case of Fernández Ortega et al. v. Mexico*, *supra*, para. 193, and *Case of V.R.P., V.P.C et al. v. Nicaragua*, *supra*, para. 152.

<sup>288</sup> Cf. *Case of González et al. ("Cotton Field") v. Mexico*, *supra*, para. 455, and *Case of Guzmán Albarracín et al v. Ecuador*, *supra*, para. 177.

justice system.<sup>289</sup> This ineffectiveness or indifference in itself constitutes discrimination against women in access to justice. Therefore, when there are specific indications or suspicions of gender violence, a failure by the authorities to investigate the possibly discriminatory motives behind an act of violence against women may in itself constitute a form of gender-based discrimination.<sup>290</sup>

136. First, the Court is drawn to what Ms. Bedoya said with respect to the first statement she made before the Office of the Public Prosecutor, insofar as she described it as "inhuman" because she had to give it in the presence of at least five men, which also caused her initially to not report that she had also suffered acts of sexual violence:

[...] the way they treated me to get my account, I was so ashamed that my mother or someone in my family would find out that I hadn't been raped by one man but by three. The prosecutor took my statement in the presence of at least five other men and I was so ashamed that I preferred to keep quiet.<sup>291</sup>

137. The Court observes that this statement was not in compliance with the State's duty to ensure that it be taken in a "comfortable and safe"<sup>292</sup> environment. It furthermore contributed to the fact that Ms. Bedoya was unable to provide all the information on what happened in those initial moments, clearly to the detriment of the criminal investigation of the facts. Additionally, the Court notes with concern what Ms. Bedoya described where she indicated that the prosecutor did not consider the investigation of the rape to be a priority.<sup>293</sup> This indifference in itself amounts to an act of gender-based discrimination that affected Ms. Bedoya's right to access to justice.

138. Likewise, in the framework of these investigations, inquiries were made regarding the alleged existence of romantic relationships between Ms. Bedoya and a guerrilla fighter,<sup>294</sup> which is part of a series of sexist conceptions and discriminatory stereotypes against women<sup>295</sup> that became yet another obstacle to determining the different lines of investigation into the facts.<sup>296</sup>

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<sup>289</sup> Cf. Case of González *et al.* ("Cotton Field") v. Mexico, *supra*, paras. 388 and 400, and Case of Lopez Soto *et al.* v. Venezuela, *supra*, para. 223.

<sup>290</sup> Cf. Case of Véliz Franco *et al.* v. Guatemala, *supra*, para. 208, and Case of López Soto *et al.* v. Venezuela, *supra*, para. 223.

<sup>291</sup> Cf. Statement from Jineth Bedoya Lima given at the public hearing held on March 15, 22, and 23, 2021 within the framework of the 140th regular sessions.

<sup>292</sup> Cf. Case of Fernández Ortega *et al.* v. Mexico, *supra*, para. 194, and Case of López Soto *et al.* v. Venezuela, *supra*, para. 241.

<sup>293</sup> Cf. Statement by Jineth Bedoya Lima before the 49th Specialized Prosecutor's Office of the National Human Rights and International Humanitarian Law Unit of April 30, 2012 (evidence file, folios 44592 to 44601).

<sup>294</sup> The case file indicates that after Jhon Jairo Vásquez, alias "Popeye", stated that the journalist was an alleged lover of a guerrilla fighter incarcerated in the National Model Prison, the Office of the Public Prosecutor ordered an interview to establish the ties between that person and the journalist, as well an inspection of the visitors log to determine who had visited him. *Cfr.* Office of the Attorney General of the Nation, Report on resolution proceedings of June 19, 2000 (evidence file, folio 193); Office of the Attorney General of the Nation, Report on resolution proceedings of June 19, 2000 (evidence file, folios 201 and 202); Office of the Attorney General of the Nation, Record of judicial inspection of November 8, 2000 (evidence file, folio 230); and Office of the Attorney General of the Nation, Record of judicial inspection of November 15, 2000 (evidence file, folio 205).

<sup>295</sup> In this regard, expert witness Kravetz explained that "a fundamental pillar in access to justice for victims of gender-based violence is the guarantee of non-discriminatory treatment," which includes eradicating investigative prejudices, stereotypes, and practices that contribute to gender-based violence. The expert explained that the use of gender stereotypes can hinder the investigation and have a harmful effect on the victims, resulting in their re-victimization. The expert also explained that the use of gender stereotypes can hinder the investigation and have a harmful effect on the victims, resulting in their re-victimization. Cf. Expert opinion from Daniela Kravetz given at the public hearing held on March 15, 22, and 23, 2021 within the framework of the 140th regular sessions and submitted in writing (merits file, folio 1102).

<sup>296</sup> In fact, the Court has highlighted that, "According to certain international standards concerning violence against women and sexual violence, evidence relating to the sexual history of the victim is inadmissible, in principle; hence, opening

139. Added to this is the excessive number of occasions on which Ms. Bedoya had to testify—12 times—as has been recognized by the State.<sup>297</sup> In cases of sexual violence, the Court has highlighted that the investigation must endeavor where possible to avoid re-victimization or the victim reexperiencing the deeply traumatic experience.<sup>298</sup> In this regard, the expert witness Jairo Enrique Cortés Pinzón stated that every time that Ms. Bedoya was asked by justice officials to take part in a procedure associated with her case, she had “a significant relapse in her health” that could continue to impact her for months due to her post-traumatic stress disorder, which in turn meant “constant treatment with monitoring and emotional support.”<sup>299</sup>

140. In view of all the foregoing, the Court concludes that the criminal investigation into the facts of May 25, 2000 was discriminatory on the basis of gender.

#### *b.1.3 Reasonable period of time*

141. The Court has indicated that the right of access to justice in cases of human rights violations must ensure, within a reasonable period of time, the right of the alleged victims or their relatives to everything necessary being done to learn the truth of what happened and investigate, prosecute and punish, as appropriate, those eventually found responsible.<sup>300</sup> Likewise, a prolonged delay in the process may constitute, in and of itself, a violation of judicial guarantees.<sup>301</sup>

142. The Court has found that evaluation of the reasonable period of time must be conducted for each specific case with regard to the total length of the process, which could also include the execution of the final judgment. Thus, it has established that four elements must be taken into account in determining whether the guarantee of reasonable time is met, namely: a) the complexity of the matter;<sup>302</sup> b) the procedural activity of the interested party;<sup>303</sup> c) the conduct of the judicial authorities;<sup>304</sup> and d) the adverse effect of the duration of the proceedings on the legal situation of

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lines of investigation into the previous social or sexual behavior of the victims in cases of gender violence is merely a manifestation of policies or attitudes based on gender stereotypes.” *Cf. Case of Véliz Franco et al. v. Guatemala. Preliminary Objections, Merits, Reparations and Costs.* Judgment of May 19, 2014. Series C No. 277, para. 209 and *Case of Gutierrez Hernandez et al. v. Guatemala. Preliminary Objections, Merits, Reparations and Costs.* Judgment of August 24, 2017. Series C No. 339, para. 170.

<sup>297</sup> Cf. Final arguments brief presented by the State of April 23, 2021 (evidence file, folio 1495).

<sup>298</sup> Cf. *Case of Fernández Ortega et al. v. Mexico, supra*, para. 196, and *Case of López Soto et al. v. Venezuela, supra*, para. 241.

<sup>299</sup> Cf. Expert opinion given before a notary public by Jairo Enrique Cortés Pinzón, March 5, 2021 (evidence file, folio 40049).

<sup>300</sup> Cf. *Case of Bulacio v. Argentina. Merits, Reparations, and Costs.* Judgment of September 18, 2003. Series C No. 100, para. 114, and *Case of Guerrero, Molina et al. v. Venezuela, supra*, para. 136.

<sup>301</sup> Cf. *Case of Hilaire, Constantine and Benjamin et al. v. Trinidad and Tobago.* Merits, reparations and costs. Judgment of June 21, 2002. Series C No. 94, para. 145, and *Case of Olivares Muñoz et al. v. Venezuela. Merits, Reparations, and Costs.* Judgment of November 10, 2020. Series C No. 415, para. 123.

<sup>302</sup> Regarding the analysis of the complexity of the matter, the Court has taken into account, among other criteria, the complexity of the evidence, the number of defendants or victims, the time elapsed since the news of the facts that must be investigated, the characteristics of the remedy set forth in the domestic legislation, and the context in which the violation occurred. Cf. *Case of Genie Lacayo v. Nicaragua.* Preliminary Objections. Judgment of January 27, 1995. Series C No. 21, para. 78, and *Case of Olivares Muñoz et al. v. Venezuela, supra*, para. 123.

<sup>303</sup> Regarding the procedural activity of the person seeking justice, the Court has taken into consideration whether their procedural conduct has contributed to some degree to unduly prolonging the process. Cf. *Case of Cantos v. Argentina. Merits, Reparations, and Costs.* Judgment of November 28, 2002. Series C No. 97, para. 57, and *Case of Olivares Muñoz et al. v. Venezuela, supra*, para. 123.

<sup>304</sup> It has been the Court’s understanding that in order for judgments to be fully effective, the judicial authorities must act quickly and without delay, because the principle of effective judicial protection requires that the enforcement procedures be carried out without obstacles or undue delay so that they attain their objectives quickly, fully, and in a straightforward

the alleged victim.<sup>305</sup> The Court recalls that the State is responsible for justifying—based on the above indicated criteria—the time taken to deal with cases, and where it fails to do so, the Court has broad authority to conduct its own assessment.<sup>306</sup> The Court also reiterates that the total length of the proceeding must be used, from the first procedural act until issuance of the final judgment, including any appeals that may be filed.<sup>307</sup>

143. In this case, the Court notes that it was a criminal case with a single victim. Likewise, the Court observes that the State learned of the facts immediately after they occurred, which facilitated the collection of useful medical evidence, a number of relevant testimonies, and other highly relevant additional evidence (for example, the footage from security cameras located around the La Modelo Prison or the telephone records of the calls made by the perpetrators during the kidnapping of Ms. Bedoya). Although it is true that multiple actors participated, which could complicate investigation of the case, it is this Court's understanding that there were no major obstacles to an effective investigation into what happened.<sup>308</sup>

144. Regarding the procedural conduct of the victim, the Court notes that, far from having any kind of passive or obstructive attitude that could delay the procedure, Ms. Bedoya, forced by the circumstances of the deficient investigation by the Office of the Public Prosecutor, had to take the initiative by conducting her own investigation and providing the appropriate evidence to State authorities. This also called into question the conduct of the State authorities, who even asked Ms. Bedoya if she had been able to obtain more information on the perpetrators of the facts.<sup>309</sup> In this regard, Ms. Bedoya stated that "for 11 years, the prosecutor in charge of the case called me to ask me why I was not continuing to investigate my case and to turn over those investigations to him to solve it."<sup>310</sup> For his part, witness Gómez Gómez indicated that it was not until 2011 that the Office of the Public Prosecutor called to interview him so that he could give his account of the facts.<sup>311</sup> The same happened with Mr. Cardona, an eyewitness to what happened.<sup>312</sup> In addition to being confirmed

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manner. Cf. *Case of Mejía Idrovo v. Ecuador. Preliminary Objections, Merits, Reparations, and Costs*. Judgment of July 5, 2011. Series C No. 228, para. 106, and *Case of Olivares Muñoz et al. v. Venezuela*, *supra*, para. 123.

<sup>305</sup> With regard to the impact on the alleged victim's legal situation, the Court has found that to determine the reasonableness of the term, the adverse effect of the duration of the proceedings on the judicial situation of the person involved in it must be taken into account, bearing in mind, among other elements, the matter in dispute. Cf. *Case of the National Association of Discharged and Retired Employees of the National Tax Administration Superintendence v. Peru. Preliminary Objections, Merits, Reparations, and Costs*. Judgment of November 21, 2019. Series C No. 394, para. 148, and *Case of Olivares Muñoz et al. v. Venezuela*, *supra*, para. 123.

<sup>306</sup> Cf. *Case of Anzulado Castro v. Peru. Preliminary Objections, Merits, Reparations and Costs*. Judgment of September 22, 2009. Series C No. 202, para. 156, and *Case of Olivares Muñoz et al. v. Venezuela*, *supra*, para. 123.

<sup>307</sup> Cf. *Case of Suárez Rosero v. Ecuador. Reparations and Costs*. Judgment of January 20, 1999. Series C No. 44, para. 71, and *Case of Olivares Muñoz et al. v. Venezuela*, *supra*, para. 123.

<sup>308</sup> Cf. *Case of Guzmán Albarracín et al v. Ecuador*, *supra*, para. 182.

<sup>309</sup> Cf. Expansion of complaint of Jineth Bedoya Lima, August 11, 2010 (evidence file, folio 638).

<sup>310</sup> Cf. Statement from Jineth Bedoya Lima given at the public hearing held on March 15, 22, and 23, 2021 within the framework of the 140th regular sessions.

<sup>311</sup> Cf. Statement made before a notary public by Ignacio Gómez Gómez, of March 8, 2021 (evidence file, folio 39967).

<sup>312</sup> He testified as follows during the public hearing before this Court:

I was summoned again in 2011, when at the request of Justice and Peace, a law created for the troubled State Peace process and paramilitarism, there was an opportunity for an individual known as alias JJ to make a public confession that I witnessed with Jineth Bedoya. He said he had received the order to assassinate Jineth Bedoya from a motorcycle in front of the La Modelo Prison, but that he received instructions at the last minute that the plan had changed, and then this happened. From there, that is, between 2000 and 2011, there was no other significant movement, or at least that I knew about.

Cf. Statement by Jorge Enrique Cardona Álvarez given during the public hearing held on March 15, 22, and 23 within the framework of the 140th regular sessions.

by Ms. Bedoya during the public hearing held before this Court,<sup>313</sup> this was recognized by a Special Agent of the Office of the Public Prosecutor itself.<sup>314</sup> The State's actions meant that even 11 years after the facts, it had gotten no results, and it was not until 2016—that is, more than 15 years after the facts of May 25, 2000—that it secured the first criminal conviction of one of the perpetrators of the facts.<sup>315</sup> Still, the identity of the intellectual authors of the aforementioned facts and the identities of other accomplices who may have participated remain unknown.

145. Regarding the effect of the duration of the proceedings on the legal situation of the person involved, this Court has established that if the passage of time will have a significant impact on the judicial situation of the individual, the proceedings must be carried out more promptly so that the case is decided as soon as possible.<sup>316</sup> In this case, the Court observes that because it involved a woman journalist who was the victim of sexual violence, the judicial authorities should have acted with the utmost diligence while collecting evidence and during the investigations and legal proceedings into the facts of this case, these judicial actions were necessary in order to investigate and punish those responsible for serious acts of violence against women—and sexual violence in particular—in an incident that, moreover, represented a clear attack on the media in general. This passage of time perpetuated that situation and sensation—both individually for Ms. Bedoya and collectively for the media and Colombian society—of impunity for this type of crime in a context of alarmingly-high rates of violence against journalists.

146. Therefore, the Court concludes that Colombia also violated the reasonable period of time for the investigation and prosecution of the aforementioned facts of May 25, 2000.

#### *b.1.4 Conclusion*

147. The Commission therefore concludes that the State violated the rights to judicial guarantees and judicial protection established in articles 8(1) and 25(1) of the American Convention, in relation to articles 1(1) and 24 of the treaty, as well as Article 7(b) of the Convention of Belém do Pará, to the detriment of Ms. Bedoya.

#### *b.2 Regarding the threats received before and after May 25, 2000*

148. The Court notes that the State recognized that it did not comply with the standard of due diligence with respect to the investigation of the threats Ms. Bedoya received before and after the aforementioned facts of May 25, 2000, as well as the lack of investigation of the attack on Ms. Bedoya and her mother on May 27, 1999 (*supra* chapter V). Because no dispute persists on this matter, the Court will not analyze the facts from the perspective of the violations recognized by the State, namely, violations of Articles 5, 11, 8, and 25 of the American Convention, in relation to the 1(1) of the Convention, as well as articles 1, 6 and 8 of the ICPPT. However, the Court does deem it necessary to analyze the impact that the lack of due diligence in the investigation of the threats Ms.

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<sup>313</sup> On this point, Ms. Bedoya indicated that the process "was paralyzed for 11 years and only when [it was presented] before the Inter-American Commission on Human Rights was it reactivated again." *Cfr.* Statement from Jineth Bedoya Lima given at the public hearing held on March 15, 22, and 23, 2021 within the framework of the 140th regular sessions.

<sup>314</sup> The official expressed to Ms. Bedoya her empathy for "the pain she feels when reliving those experiences. If it were not for [the] investigation, which produced no results after eleven years, [she] must answer to you and to Colombia for this case." *Cf.* Sworn statement of Jineth Bedoya Lima, November 26, 2011 (evidence file, folio 803).

<sup>315</sup> *Cf.* Fifth Criminal Court of the Bogotá Specialized Circuit, Judgment of February 24, 2016 (evidence file, folio 24090 and 24091).

<sup>316</sup> *Cf. Case of Valle Jaramillo et al. v. Colombia. Merits, Reparations and Costs.* Judgment of November 27, 2008. Series C No. 192, para. 155, and *Case of the Employees of the Fireworks Factory of Santo Antonio de Jesus v. Brazil. Preliminary Objections, Merits, Reparations, and Costs.* Judgment of July 15, 2020. Series C No. 407, para. 224.

Bedoya received had on her right to freedom of expression.

149. The Court has already referred in this judgment to the content of the right to freedom of expression protected by Article 13 of the American Convention, as well as to the relevance of the exercise of journalism and its connection with that right (*supra* paras. 106 and 107). The Court has also recognized the possibility of *de facto* situations in which those who exercise freedom of expression will find themselves at greater risk or vulnerability. Under these circumstances, States have an obligation to refrain from actions that facilitate or increase danger and, when applicable, adopt reasonable and necessary measures to prevent violations or to protect the rights of those at risk.<sup>317</sup>

150. This means that States have an obligation to adopt all the measures necessary to not only protect journalists from these risks, but also to diligently investigate any act of aggression against them.<sup>318</sup> Furthermore, prevention of these violations is necessary to ensure the crimes committed against journalists, especially those that endanger their lives and/or physical integrity, do not remain in impunity. As previously noted, it is impunity that has both a direct effect on the victim or victims of the attacks, and a social impact. This impact is also differentiated by gender. Expert witness Kravetz noted as much at the hearing when she indicated that, in this particular case, "the fact that a journalist—especially a highly visible journalist—could receive threats that then go unpunished sends a message discouraging other journalists and human rights defenders in relation to their work, leading them to limit themselves in the exercise of their work."<sup>319</sup> The foregoing is also supported by the statement made by Ms. Bedoya, who in the hearing held before this Court referred to the fact that "8 out of 10 women journalists in Colombia decide to self-censor or quit their sources and their work so as not to become victims of violence."<sup>320</sup>

151. Additionally, not only does impunity for attacks on journalists have a chilling effect on the victims and society, it is joined by an environment that enables the perpetrators of such attacks. In the words of the Court, "impunity fosters chronic recidivism of human rights violations, and total defenseless of victims and their relatives."<sup>321</sup> In this regard, expert Michel Forst established that:

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<sup>317</sup> Cf. *Case of Uzcátegui et al. v. Venezuela. Merits and Reparations*. Judgment of September 3, 2012. Series C No. 249, para. 190. This stance is complimented by that of the IACtHR, which is that countries with a "systematic and grave structural situation of violence against journalists and media workers" must establish special mechanisms of protection. Cf. IACtHR, Office of the Special Rapporteur on Freedom of Expression, "Violence Against Journalists and Media Workers: Inter-American Standards and National Practices on Prevention, Protection and Prosecution of Perpetrators," 2013, para. 62, available at:

[https://www.oas.org/en/iachr/expression/docs/reports/2014\\_04\\_22\\_violence\\_web.pdf](https://www.oas.org/en/iachr/expression/docs/reports/2014_04_22_violence_web.pdf).

<sup>318</sup> In this regard, expert witness Daniela Kravetz explained the importance of the diligent investigation of the threats in conjunction with the adoption of protection measures and established that "justice officials must comply with their due diligence obligations in good faith and without discrimination, and guarantee the protection and safety of people who have been the subject of threats. Cf. Expert opinion from Daniela Kravetz given at the public hearing held on March 15, 22, and 23, 2021 within the framework of the 140th regular sessions and submitted in writing (merits file, folio 1104).

<sup>319</sup> Cf. Expert opinion from Daniela Kravetz given at the public hearing held on March 15, 22, and 23, 2021 within the framework of the 140th regular sessions. Likewise, expert witness Juan Méndez explained the particular impact that threats have on women journalists and human rights defenders and stated that they "are particularly at risk of being threatened because of their reporting. Due to their visibility, there are attempts to silence them and targeted attacks aimed at discouraging broader dissent." Cf. Expert opinion rendered before a notary public by Juan E. Méndez (evidence file, folio 40025).

<sup>320</sup> Cf. Statement from Jineth Bedoya Lima given at the public hearing held on March 15, 22, and 23 within the framework of the 140th regular sessions. Specifically, Ms. Bedoya indicated that these figures date "to 2011, since 2009 I have led the organization No es Hora de Callar, which is focused on documenting cases of gender-based violence, both general gender-based violence and stigmatization and violence against women journalists."

<sup>321</sup> Cf. *Case of Maritza Urrutia v. Guatemala*, *supra*, para. 126, and *Case of Olivares Muñoz et al. v. Venezuela*, *supra*, para. 131.

The high level of impunity without question contributes to the continuing attacks on journalists. Not only does it allow attackers to continue in their efforts to intimidate journalists, but it also signals to armed groups, paramilitaries and State officials that journalists do not deserve protection. Impunity also reinforces the culture of self-censorship and internal displacement of journalists. When they stop investigating certain actors or certain areas for fear of reprisals, corruption and violence continue unabated.<sup>322</sup>

152. From the foregoing derives a State duty to develop a comprehensive policy for protecting journalists, as States must guarantee that journalists who work in the media enjoy the protection and independence necessary to perform their functions fully,<sup>323</sup> given that journalism can only be exercised freely when those who carry out this work are not victims of threats or physical, mental or moral attacks or other acts of harassment.<sup>324</sup> In this case, it has been proven that the State did not act with the due diligence necessary to investigate the facts of May 25, 2000, or the threats against Ms. Bedoya before and after that date.

153. In view of what has been established in the above paragraphs, together with the State's partial recognition of international responsibility—and, in particular, its explicit acknowledgment of the violation of Articles 5, 11, 8, and 25 of the American Convention, in relation to Article 1(1) of that treaty, as well as Articles 1, 6 and 8 of the ICPPT—the Court concludes that the failure to investigate the threats Ms. Bedoya has been receiving since at least 1999 when they were brought to the attention of the State constituted a violation of articles 8(1) and 25(1) of the American Convention, in connection with articles 1(1), 5(1), 11, and 13 thereof, to the detriment of Jineth Bedoya. Likewise, in view of the circumstances in which these violations took place and the State's partial recognition of international responsibility in this regard, the Court concludes that the foregoing also amounted to violation of articles 1, 6, and 8 of the ICPPT. Lastly, and also in view of the State's recognition of responsibility, the Court concludes that the failure to investigate the attack on Ms. Bedoya in which her mother, Ms. Luz Nelly Lima, was injured, amounted to a violation of articles 5, 11, 8 and 25 of the American Convention, in relation to Article 1(1) thereof, to the detriment of Mrs. Luz Nelly Lima.

#### *b.3 Other violations of the American Convention alleged by the representatives*

154. Regarding the representatives' argument that the aforementioned facts also entailed a violation of the right to defend human rights, the Court finds that the duty to guarantee this right is sufficiently addressed in the analysis carried out in this section through the rights declared violated.<sup>325</sup>

## VIII - 3

### **RIGHT TO PERSONAL INTEGRITY OF MS. LUZ NELLY LIMA, MOTHER OF JINETH BEDOYA LIMA<sup>326</sup>**

#### **A. Arguments of the parties and of the Commission**

155. The **Commission** observed that the absence of a diligent investigation impacted the psychological and moral integrity of Ms. Bedoya's mother, in addition to the suffering and anguish

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<sup>322</sup> Cf. Expert opinion of Michel Forst given before a notary public on March 5, 2021 (evidence file, folio 40075).

<sup>323</sup> Cf. *Case of Herrera Ulloa v. Costa Rica. Preliminary Objections, Merits, Reparations and Costs*. Judgment of July 2, 2004. Series C No. 107, para. 119.

<sup>324</sup> Cf. *Case of Vélez Restrepo and Family v. Colombia*, *supra*, para. 209.

<sup>325</sup> Cf. *Case of Human Rights Defender et al. v. Guatemala. Preliminary Objections, Merits, Reparations, and Costs*. Judgment of August 28, 2014. Series C No. 283, para. 193.

<sup>326</sup> Article 5 of the American Convention on Human Rights, in relation to Article 1(1) of the Convention.

caused by the more than 18-year delay in securing justice for the facts. It concluded that the State violated the right enshrined in Article 5(1) of the Convention, in relation to Article 1(1) thereof, to the detriment of Luz Nelly Lima.

156. The **representatives** agreed with the arguments of the Commission and specified that, in this case, Ms. Bedoya's mother had experienced "profound suffering as a result of what happened to her daughter, and for having accompanied her in her search for justice over the last 20 years". They indicated that Ms. Lima was also a victim of the attacks directed at Ms. Bedoya. They added that Ms. Lima lives "in constant fear that Jineth may be the victim of a new act of violence."

157. In its answering brief, prior to the partial recognition of international responsibility, the **State** argued that it did guarantee Luz Nelly Lima's right to personal integrity, since the authorities "have investigated the case with due diligence." It also argued that the authorities in charge of the investigation and prosecution of the facts that impacted Ms. Lima were diligent in establishing the facts and identifying those responsible. Likewise, the State held that it was not possible to find Colombia internationally responsible for the alleged violation of the right to humane treatment of Luz Nelly Lima because three of the perpetrators of the facts of May 25, 2000 were convicted, such that "no connection can be demonstrated between the alleged violation of the right to integrity of the victim's mother, Ms. Luz Nelly, and the State's lack of due diligence in the investigation" of the facts.

#### **B. Considerations of the Court**

158. The **Court** has repeatedly affirmed that the family members of victims of human rights violations may, in turn, be victims.<sup>327</sup> This Court has considered that a violation of the right to psychological and moral integrity may be declared in the case of "direct next of kin" or others with close ties to the victims for the additional suffering they have endured as a result of the particular circumstances of the violations perpetrated against their loved ones, and the subsequent actions or omissions by the State authorities in this regard,<sup>328</sup> considering, among other aspects, the steps taken to obtain justice and the existence of close family ties.<sup>329</sup>

159. The Court notes the special characteristics of the impact of the acts of sexual violence and threats suffered by Ms. Bedoya's mother. In this regard, expert witness Clara Sandoval addressed the impact and differentiated damage experienced by the mothers of victims of sexual violence, which must be analyzed from a gender perspective. She explained that when victims of sexual violence are stigmatized and alienated, mothers are the ones who stay with their daughters, amplifying the emotional impact that the mother suffers and also exposing themselves to the re-victimization and stigma of sexual violence.<sup>330</sup> Ms. Bedoya testified in this regard that her mother "bears my pain, but also her pain, and I think that is what happens to all victims, especially when the person who has suffered the victimizing act is one of our own, because the pain is double, and that is what has happened to her."<sup>331</sup> In fact, the mothers of victims of sexual violence "suffer fear

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<sup>327</sup> Cf. Case of the "Street Children" (Villagrán-Morales et al.) v. Guatemala. Merits, supra, para. 176, and Case of Guachalá Chimbo et al. v. Ecuador. Merits, Reparations, and Costs. Judgment of March 26, 2021. Series C No. 423, para. 217.

<sup>328</sup> Cf. Case of Blake v. Guatemala. Merits. Judgment of January 24, 1998. Series C No. 36, para. 114, and Case of Guachalá Chimbo et al. v. Ecuador, *supra*, para. 217.

<sup>329</sup> Cf. Case of Bámaca Velásquez v. Guatemala. Reparations and Costs. Judgment of February 22, 2002. Series C No. 91, para. 163, and Case of Guachalá Chimbo et al. v. Ecuador, *supra*, para. 217.

<sup>330</sup> Cf. Expert opinion from Clara Sandoval given at the public hearing held on March 15, 22, and 23, 2021 within the framework of the 140th regular sessions.

<sup>331</sup> Cf. Statement from Jineth Bedoya Lima given at the public hearing held on March 15, 22, and 23, 2021 within the framework of the 140th regular sessions.

as a result of the new violence because the problem with certain kinds of sexual violence is that it can always continue and be repeated."<sup>332</sup> Ms. Lima made statements to this effect in the framework of these proceedings, indicating that "the events of May 25, 2000 and the threats that Jineth has received are things that affect me every day of my life."<sup>333</sup> Likewise, Ms. Bedoya made specific reference to the effects that all the acts of violence against her and the State's inaction, indicating the following during the public hearing held before this Court:

My mother, I have to say that she has never had support from the State in terms of security, [...], and she has been subjected to surveillance. Sometimes they call her phone to ask her questions about me, and we know that it's to intimidate her, we know they are also playing at that, psychological harassment and emotional harassment, and I can handle it because I have lived in the middle of it for 20 years. I got used to living in the middle of it, [...], but not her, I think that has been the hardest [...]. Her health has declined during these years, but especially from not being able to live a free life, not being able to live.<sup>334</sup>

160. Added to this is the serious fact that Ms. Lima herself was the collateral victim of an attack directed at her daughter on May 27, 1999, after which she also had to be hospitalized.<sup>335</sup>

161. Lastly, the Court finds that the fact that the threats received by Ms. Bedoya continue in impunity has also caused her mother suffering. She stated that she still feels "very afraid" because she knows that there are still people who want to take her daughter's life.<sup>336</sup>

162. Therefore, in view of the evidence and information provided in the case file, as well as the particular circumstances of this case, this Court finds that, as a direct consequence of the acts of violence against her daughter, and because she accompanied her for more than two decades in her search for justice while the facts remain in partial impunity and because of the threats that her daughter continues to receive even today, Ms. Lima experienced and continues to experience deep suffering and anguish to the detriment of her mental and moral integrity, in violation of the Article 5(1) of the American Convention, in relation to Article 1(1) of the same instrument.

## **IX REPARATIONS**

163. Under Article 63(1) of the American Convention, the Court has indicated that any violation of an international obligation that has caused harm entails the obligation to make adequate reparation and that this provision reflects a customary norm that is one of the fundamental principles of contemporary international law on State responsibility.<sup>337</sup>

164. Reparation of the harm caused by the violation of an international obligation requires, insofar

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<sup>332</sup> Cf. Expert opinion from Clara Sandoval given at the public hearing held on March 15, 22, and 23, 2021 within the framework of the 140th regular sessions.

<sup>333</sup> Cf. Statement made before a notary public by Luz Nelly Lima, of March 6, 2021 (evidence file, folio 39919).

<sup>334</sup> Cf. Statement from Jineth Bedoya Lima given at the public hearing held on March 15, 22, and 23, 2021 within the framework of the 140th regular sessions.

<sup>335</sup> Cf. Statement from Jineth Bedoya Lima given at the public hearing held on March 15, 22, and 23, 2021 within the framework of the 140th regular sessions, and Statement made before a notary public by Luz Nelly Lima, of March 6, 2021 (evidence file, folio 39917). Also see Complaint filed by Jorge Enrique Cardona Álvarez before the Office of the Attorney General of the Nation, May 26, 2000 (evidence file, folio 92); Sworn statement given by Jorge Enrique Cardona Álvarez before the Office of the Attorney General of the Nation, November 1, 2011 (evidence file, folio 16).

<sup>336</sup> Cf. Statement made before a notary public by Luz Nelly Lima, of March 6, 2021 (evidence file, folio 39921).

<sup>337</sup> Cf. Case of *Velásquez Rodríguez v. Honduras. Reparations and Costs*. Judgment of July 21, 1989. Series C No. 7, para. 25; and Case of *Grijalva Good v. Ecuador*, *supra*, para. 163.

as possible, full restitution (*restitutio in integrum*), which consists in the restoration of the previous situation. If this is not feasible, as in most cases of human rights violations, the Court will determine measures to guarantee the rights that have been violated and to redress the consequences of those violations.<sup>338</sup> Accordingly, the Court has considered it necessary to grant different measures of reparation in order to redress the harm comprehensively; thus, in addition to pecuniary compensation, measures of restitution, rehabilitation and satisfaction, and guarantees of non-repetition have special relevance for the harm caused.<sup>339</sup>

165. The Court has also established that reparations must have a causal nexus with the facts of the case, the violations declared, the harm proved, and the measures requested to redress the respective damages. Therefore, the Court must observe this concurrence in order to rule appropriately and in accordance with the law.<sup>340</sup> In the instant case the Court considers that the reparations must include an analysis that considers not only the right of victims to obtain redress, but also one that incorporates a gender perspective, both in its formulation and in its implementation.<sup>341</sup>

166. Taking into account the violations of the American Convention declared in the preceding chapters, and the criteria established in its case law regarding the nature and scope of the obligation to provide reparation,<sup>342</sup> the Court will now analyze the claims presented by the Commission and the representatives, as well as the arguments of the State, for the purpose of ordering measures aimed at redressing the damage caused by those violations.

#### **A. Injured party**

167. Under the terms of Article 63(1) of the Convention, this Court considers as injured party anyone who has been declared a victim of the violation of any right recognized therein. Therefore, this Court considers the "injured party" to be Jineth Bedoya Lima and her mother, Luz Nelly Lima, and as victims of the violations described in Chapter VIII, they will be considered beneficiaries of the reparations ordered by the Court.

#### **B. Obligation to investigate the facts and identify, prosecute and punish, as appropriate, those responsible**

168. The **Commission** recommended that the Court order the State to carry out a complete, impartial and effective investigation within a reasonable period of time to establish all the circumstances of all the crimes committed against Ms. Bedoya, including the threats and sexual violence, and determine all the corresponding responsibilities (perpetrators, masterminds, accomplices and accessories), including the possible participation of State agents. It also requested that all necessary measures be adopted to guarantee the safety of Ms. Bedoya and her family during these investigations and proceedings.

169. The **representatives** also asked that the State carry out a complete, impartial, exhaustive investigation of the facts and establish all levels of responsibility for what happened to Ms. Bedoya

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<sup>338</sup> Cf. *Case of Velásquez Rodríguez v. Honduras. Reparations and Costs*, *supra*, paras. 25 and 2; and *Case of Grijalva Good v. Ecuador*, *supra*, para. 164.

<sup>339</sup> Cf. *Case of the "Las Dos Erres" Massacre v. Guatemala. Preliminary Objections, Merits, Reparations, and Costs*. Judgment of November 24, 2009. Series C No. 211, para. 226; and *Case of Grijalva Good v. Ecuador*, *supra*, para. 164.

<sup>340</sup> Cf. *Case of Ticona Estrada v. Bolivia. Merits, Reparations, and Costs*. Judgment of November 27, 2008. Series C No. 191, para. 110; and *Case of Grijalva Good v. Ecuador*, *supra*, para. 165.

<sup>341</sup> Cf. *Case of I.V. v. Bolivia*, *supra*, para. 326, and *Case of Guzmán Albarracín et al v. Ecuador*, *supra*, para. 215.

<sup>342</sup> Cf. *Case of Velásquez Rodríguez v. Honduras. Reparations and Costs*, *supra*, paras. 25 to 27, and *Case of Azul Rojas Marín et al. v. Peru*, *supra*, para. 225.

on May 25, 2000, as well as responsibility for the threats made before and after that day, through to the present.

170. The **State** noted that the Colombian system of justice is continuing with the criminal investigations into the events of May 25, 2000 and that the State will continue to take all the steps necessary to pursue this work in order to determine whether State agents participated in the facts. Regarding the investigation into the threats suffered by Ms. Bedoya, the State recalled that it had recognized its international responsibility and expressed its willingness to implement "the measures necessary to provide redress for the damage caused to the victims."

171. Regarding the investigation into the facts of May 25, 2000, the **Court** observes that within the framework of this Judgment, it has determined that the investigation and subsequent prosecution of these facts did not meet due diligence standards and that, in addition, they have not been able to clarify all the circumstances surrounding them.<sup>343</sup> The Court also notes that the State itself has indicated that it continues to carry out investigation procedures with respect to these facts and that "one of the current lines of investigation seeks to determine whether State agents participated in this case."<sup>344</sup>

172. In view of the foregoing, the Court establishes that the State must, within a reasonable period of time, prioritize and continue the investigations necessary to identify, prosecute and, where appropriate, punish the remaining persons responsible for the acts of violence and torture that Ms. Bedoya suffered on May 25, 2000, avoiding the use of harmful gender stereotypes or any act that could be revictimizing for her.

173. Likewise, in view of the acknowledgment of international responsibility made by the State regarding the lack of due diligence in the investigation of the threats that Ms. Bedoya received, both before and after the facts of May 25, 2000, and of its willingness to implement "the measures necessary to compensate the damage caused to the victims," the Court establishes that the State must, within a reasonable period of time, prioritize and continue the investigations necessary to identify, prosecute, and, where appropriate, punish those responsible for the threats received by Ms. Bedoya both before and after the facts of May 25, 2000 and that have been brought to the attention of the State, as well as those responsible for the attack on Ms. Bedoya and her mother on May 27, 1999.

174. Lastly, the Court deems it pertinent to order the State to adopt all the measures necessary to protect the lives, personal integrity, and security of Ms. Bedoya and her mother, Ms. Luz Nelly Lima, during the course of these investigations and proceedings, providing the necessary protection from any person. The Court finds, therefore, that the provisional measures adopted in the framework of

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<sup>343</sup> In this regard, the expert Daniela Kravetz testified at the hearing held before this Court that:

In this sense, we have moved away from this notion that sexual violence is a first-hand crime attributable only to the perpetrators. Where there has been very important progress, is in attributing responsibility to those most responsible, which is the leaders of entities—whether State or non-State structures—that commit these types of violations.

The main step forward is that nowadays, the concept of perpetrator is understood more broadly, such that the person at the top can be considered the perpetrator for having touched off a campaign of violence in which incidents take place through the use of an organized power structure to commit violence, as well as for establishing conditions of vulnerability that expose the victim to facts of violence—for example, by ordering an illegal arrest or kidnapping."

*Cf.* Expert opinion from Daniela Kravetz given at the public hearing held on March 15, 22, and 23, 2021 within the framework of the 140th regular sessions.

<sup>344</sup> *Cf.* Final written arguments of the State, presented on April 23, 2021, para. 187 (merits file, folio 1551).

this case are subsumed within this measure of reparation and will be monitored within the framework of the monitoring of this judgment. The State must continue to report to the Court every two months, counting from the submission of its last report, on compliance with this measure.

### **C. Measures of satisfaction**

#### *c.1 Publication of judgment and summary*

175. The **Court** decides, as it has in other cases,<sup>345</sup> that the State must publish, within six months of notification of this judgment: a) the official summary of this judgment prepared by the Court, once, in the Official Gazette, in an appropriate and legible font; b) the official summary of this judgment prepared by the Court, once, in a newspaper with widespread national circulation, in an appropriate and legible font, and c) this judgment in its entirety, available for one year, on an official website of the State. The State must advise this Court immediately when it has issued each of the publications ordered, regardless of the one-year time frame for presentation of its first report, as established in the 20th operative paragraph of this judgment.

#### *c.2 Annual scholarship and production and dissemination of the program "No es hora de callar"*

176. The **representatives** asked the Court to order the Colombian State: (i) to grant an annual fellowship for a postgraduate researcher to contribute to developing the work of the Media and Gender Observatory of the Universidad Central and the campaign "No Es Hora de Callar" for the next 5 years and that (ii) the State ensure the production and dissemination of the cross-media program "No es hora de callar," to be broadcast by the public media system with at least 60 minutes of content per month for 5 years in order to raise awareness on the rights of women to exercise of journalism in Colombia.

177. The **State** indicated that the domestic legal system provides for different routes through which victims can obtain reparation and indicated that it had implemented measures of satisfaction for Jineth Bedoya. It noted that Ms. Bedoya was recognized and included in the Unified Victims Registry on May 9, 2013 for the victimizing acts of (i) threats, (ii) kidnapping, (iii) torture, and (iv) crimes against freedom and sexual integrity during the armed conflict. Based on this, Ms. Bedoya received (i) financial compensation, (ii) a dignification letter, (iii) the National Day for the Dignity of Women Victims of Sexual Violence in the framework of the Internal Armed Conflict was declared, and (iv) received psychosocial support.

178. Regarding the fellowship requested, the State indicated that it has the Observatory for Memory and Conflict of the National Center for Historical Memory and that, therefore, the measure was not necessary. It added that Colombia "supports research and promotes higher education by granting scholarships and educational loans prioritizing students with fewer economic opportunities and good academic performance" and that all students and journalists who require some kind of support "can go to the Colombian Institute of Educational Lending and Technical Studies Abroad." Lastly, with regard to the dissemination of the program "No es hora de callar," the State indicated that every day the documentary "Fragmentos" is screened at the "anti-monument" that was built in compliance with the terms of the Peace Agreement, which should be assessed positively by the Court.

179. In view of the violations declared in this case, the **Court** establishes that the State must

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<sup>345</sup> Cf. Case of Montesinos Mejía v. Ecuador. Preliminary Objections, Merits, Reparations, and Costs. Judgment of January 27, 2020. Series C No. 398, para 226, and Case of Grjalva Bueno v. Ecuador, *supra*, para. 177.

guarantee the dissemination of the cross-media program "No es hora de callar," which shall be broadcast over the public media system. It is to have at least 60 minutes of content per month for 5 years from the first broadcast, in order to raise awareness regarding the rights of women in the exercise of journalism in Colombia. With respect to the annual fellowship requested, the Court finds that the issuance of this judgment and the reparations ordered therein are sufficient and adequate.

### **C. Rehabilitation**

180. The **Commission** generally recommended that the State adequately provide both pecuniary and nonpecuniary reparations for the human rights violations declared to the detriment of Ms. Bedoya.

181. The **representatives** asked the Court to order the Colombian State to ensure the victims receive medical and psychological treatment provided by competent professionals that they trust—including specialists—paid for by enrolling in complementary prepaid medical services, for as long as is necessary to guarantee their physical and psychological recovery.

182. In this regard, the **State** asked that, if this measure is granted, it be ordered through the mechanisms the State has available to offer this type of care. It specifically referred to the "Program for psychosocial care and comprehensive health for victims" (PAPSIVI) of the Ministry of Health and Social Protection.

183. The **Court** has verified the serious damage to integrity of person suffered by both Ms. Bedoya and her mother, Ms. Luz Nelly Lima. The Court notes that sexual violence victims' lack of access to rehabilitation—at least in terms of mental and physical health—is highly problematic and constitutes another barrier to justice, truth, and reparation.<sup>346</sup> Therefore, the Court establishes that the State is required to make a one-time payment of USD\$30,000.00 (thirty thousand United States dollars) to Jineth Bedoya Lima, and USD \$30,000.00 (thirty thousand United States dollars) to Luz Nelly Lima, for medical, psychological and/or psychiatric treatment expenses, so they can be provided by competent professionals they trust, including specialists, whose services may be covered through enrollment in complementary prepaid medical services, along with medications and other related expenses. The State has one year from notification of this judgment to make this payment to each of the victims.

### **D. Guarantees of non-repetition**

#### *d.1. Requests of the representatives and the Commission and arguments of the State*

184. The **Commission** recommended in its Report on the Merits that the State:

(i) from a gender perspective, adopt effective protection measures to guarantee the safety of female journalists who are subject to special risk due to the exercise of their profession. In this regard, it indicated that, although Colombia has a protection mechanism for journalists and human rights defenders under the National Protection Unit (UNP) and the Committee for Risk Assessment and Recommendation of Measures (CERREM), based on the testimony of witness Catalina Botero and the deficiencies identified by the Commission itself, the State has the obligation to implement this mechanism effectively, with a gender approach, in coordination with the Office of the Attorney General of the Nation.

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<sup>346</sup> Cf. Expert opinion from Clara Sandoval given at the public hearing held on March 15, 22, and 23, 2021 within the framework of the 140th regular sessions and submitted in writing (merits file, folio 1161).

(ii) implement training programs for government officials, security forces, and justice officials to ensure that they have the knowledge necessary to identify incidents and manifestations of gender-based violence against women that affect women journalists; protect them when they are in danger; and investigate and prosecute the perpetrators, including through the provision of tools and training on technical and legal aspects of this type of crime; and

(iii) implement measures to raise awareness in society about gender-based violence against women journalists as attacks on freedom of expression and disseminate clear information on the services and legal mechanisms available to protect the victims of these types of acts.

185. In its final written observations, the Commission asked that in addition to individual measures of justice, the Court establish guarantees of non-repetition that are symbolic in nature and contribute to preventing and rejecting violence against women, as well as reaffirming the journalism work of women, with it being relevant in this case to adopt the necessary measures to transform the meaning of the La Modelo Prison. It also asked that the State be ordered to publish disaggregated data on gender-based violence and threats and violence against journalists and human rights defenders in Colombia.

186. The **representatives** requested that the State be ordered to:

(i) close La Modelo Prison and transform that space into a place of reflection and memory dedicated to women victims of sexual violence and to investigative journalism, with specific recognition of the work of women journalists. They said the center should bear the name of the campaign: "Centro Investigativo No es Hora de Callar" (No Time To Fall Silent Investigation Center).

(ii) adopt a protocol establishing specific guidelines for the Office of the Public Prosecutor on how to investigate threats against journalists and human rights defenders with a gender perspective.

(iii) codify the actions of public officials that promote violence against women, discrimination based on gender, and/or pose risks to journalists or justify violence against them as serious offenses in the General Disciplinary Code.

(iv) guarantee the safety of Jineth Bedoya and her mother Luz Nelly Lima.

(v) publish disaggregated data on gender-based violence and threats and violence against journalists and human rights defenders in Colombia, including complaints regarding these crimes, the location of incidents, the investigations conducted in response to the complaints, the procedural status of any investigation process associated with each crime, and the persons convicted and sentenced under those processes with respect to each crime. Specifically, information should be published regarding complaints, charging of perpetrators and masterminds, and conviction of perpetrators and masterminds.

(vi) establish mandatory training for all public officials who play a role in the investigation, prosecution, and support for victims of sexual violence. This includes, at a minimum, personnel whose responsibilities include addressing, directing, or investigating with regard to violence against women and violence against women journalists.

(vii) the creation of a program for the prevention of violence against the media, directed by the Ministry of Labor, that the media will have the option of joining. This program must provide

guidance to media and journalists interested in the structuring of prevention protocols, analysis of risks associated with journalism activity, financial support for the design and implementation of prevention protocols, and availability of training on physical digital security.

(viii) that the National Protection Unit include in each resolution determining the level of a person's risk and the measures granted an explicit reference to the status of the investigation into the facts giving rise to the risk and their impact on the risk analysis.

187. The **State** argued that Law 1448 of 2011, which establishes measures of care, support, and comprehensive reparations for victims of the internal armed conflict, among other provisions, meets the standards on reparation since it provides for a complete system to protect, assist, support, and provide redress to the victims of the armed conflict. It also argued the following:

(i) Regarding the Commission's request to adopt, from a gender perspective, effective protection measures to guarantee the safety of female journalists who are subject to special risk due to the exercise of their profession, it indicated that Colombia has measures of protection in place to guarantee the safety of women journalists using a gender approach and that, therefore, the measure is unnecessary. It added that today, this measure is underpinned by a public policy, namely, the "Comprehensive Protection Policy and Guarantees for Social and Community Leaders, Journalists and Human Rights Defenders," as well as the "Timely Action Plan" and a strategy for investigating crimes against human rights defenders, which includes journalists.

(ii) Regarding the Commission's request to implement training programs: It indicated that Colombia has been taking a number of actions in this regard, including training by the Justice Strengthening Group that use a gender approach, under the Office of Formal Justice of the Vice Ministry for the Promotion of Justice. Additionally, it pointed out it had launched "training on the use of specific methodologies for investigating criminal threats" for prosecutors, investigators, and State analysts in charge of investigating and prosecuting such crimes.

(iii) With regard to the Commission's request to adopt measures to raise awareness in society on gender-based violence against women journalists as attacks on freedom of expression and disseminate clear information on the services and expression: it indicated that the State has adopted different strategies, tools, and actions aimed at raising awareness on violence against women. In particular, it pointed to the "RedConstruyendo" strategy, which seeks to facilitate access to justice for women and the LGBTI population who are victims of sexual violence and gender-based violence.

(iv) Regarding the request of the representatives to close the La Modelo Prison and transform that space into a place of reflection and memory dedicated to women victims of sexual violence and to investigative journalism: it opposed this measure, arguing that the facts surrounding the situation at La Modelo Prison are contextual and do not overlap with the possible violations alleged in this case. It added that the closure of the prison would be "excessively burdensome" (costing approximately 444,480,000,000 million pesos), especially in view of country's fiscal situation due to the COVID-19 pandemic. It added that closing the prison is not "viable," as the inmates could not be placed in other facilities. This "would lead to a massive overstretching of detention center capacity, aggravating the impact on the human rights of the population deprived of liberty." Alternatively, the State proposed the creation of a "center of memory and dignity for all women victims of sexual violence in the context of the armed conflict," in which the "participation of Jineth Bedoya would be fundamental." According to the State, in that space for reflection "all the activities proposed in the [pleadings and motions brief] could be carried out," including the "permanent exhibitions on the work of Jineth Bedoya as a journalist and defender of human rights and the rights of women, guaranteeing their preservation into the

future, as well as new investigations, artistic expressions, or other works regarding the facts; temporary exhibitions on current and future cases or issues of human rights and journalism, promoted by civil society, social movements and, in general, people and groups that defend human rights; programs to disseminate collective memory, with an emphasis on providing a space and a voice to women and journalists and other cases of serious human rights violations; meetings for journalists, human rights defenders and survivors of violence against women and other target groups.”

(v) Regarding the representatives' request to adopt a protocol establishing specific guidelines for the Office of the Public Prosecutor on how to investigate threats against journalists and human rights defenders with a gender perspective: It argued that the State has a comprehensive public policy and guarantees in place for social and community leaders, journalists, and human rights defenders.

(vi) Regarding the representatives' request to codify the actions of public officials that promote violence against women, discrimination based on gender, and/or pose risks to journalists or justify violence against them as serious offenses in the General Disciplinary Code: It indicated that the request was unnecessary, since existing regulations on disciplinary matters already require investigations to be launched and pursued against officials who engage in violence, gender discrimination, and/or stigmatization.

(vii) Regarding the representatives' request to guarantee the safety of Jineth Bedoya and her mother, Luz Nelly Lima: It reiterated that it has adopted all the measures of protection necessary to protect the life and integrity of both alleged victims.

(viii) Regarding the representatives' request to order the State to publish disaggregated data on gender-based violence and threats and violence against journalists and human rights defenders in Colombia, including complaints regarding these crimes, the location of incidents, the investigations conducted in response to the complaints, the procedural status of any investigation process associated with each crime, and the persons convicted and sentenced under those processes with respect to each crime: It indicated that it has already taken actions aimed at publishing data and accounting for gender-based violence in Colombia and that, in particular, it had designed an Comprehensive Gender-based Violence Information System. Complementary to this, the Office of the Ombudsperson has published a report on gender-based violence and discrimination and the Delegate for women's rights and gender issues follows up on the recommendations established in the report.

(ix) Regarding the representatives' request to establish mandatory training for all public officials who play a role in the investigation, prosecution, and support for victims of sexual violence: It indicated that Colombia has been taking a number of actions in this regard, including training by the Justice Strengthening Group that use a gender approach, under the Office of Formal Justice of the Vice Ministry for the Promotion of Justice.

(x) Regarding the representatives' request to create a program for the prevention of violence against the media, directed by the Ministry of Labor, that the media will have the option of joining: The State indicated that it has sufficient mechanisms for promoting the prevention, protection, and care of journalists. It added that Decree 2137 of 2018 created the Committee on a Timely Action Plan for human rights defenders, social leaders, community leaders, and journalists “to monitor and take preventative and protective measures in response to threats against human rights defenders, social leaders, and journalists.”

(xi) Regarding the request of the representatives for the National Protection Unit to include in each resolution determining the level of a person's and the measures granted an explicit reference to the status of the investigation into the facts giving rise to the risk and their impact on the risk analysis: It indicated that the National Protection Unit "already takes investigations into account when determining the risk facing a beneficiary or requester."

#### *d.2. Considerations of the Court*

188. In this case, the **Court** notes that despite the efforts made by the State to combat violence against journalists, according to numerous sources, a serious context of threats, attacks, and murders perpetrated against social leaders and human rights defenders—which includes journalists—persists to this day.<sup>347</sup> The Court will take the foregoing into account when determining the guarantees of non-repetition in this case.

##### *d.2.1 Implementation of training and awareness programs*

189. This **Court** views positively the efforts made by the State to train justice officials from a gender perspective and on investigating criminal threats. However, it deems it pertinent to order the State to create and implement, within two years, a plan for training programs and raising awareness among government officials, security forces, and justice officials to ensure that they have the knowledge necessary to identify incidents and manifestations of gender-based violence against women that affect women journalists; protect them when they are in danger; and investigate and prosecute the perpetrators, including through the provision of tools and training on technical and legal aspects of this type of crime.

##### *d.2.2 Center for memory and dignity dedicated to women victims of sexual violence and investigative journalism*

190. The **Court** views positively the State's offer in its brief of final arguments of an alternative to the request to close the La Modelo Prison, and therefore orders the creation of a State center for the memory and dignity of all women victims of sexual violence within the framework of the armed conflict and investigative journalism, with specific recognition of the work of women journalists. The center should bear the name of the campaign: "Centro Investigativo No es Hora de Callar" (No Time To Fall Silent Investigation Center), and must include the participation of Ms. Bedoya. In addition, all matters related to the organization of the center and its activities must include the participation of women representatives of civil society organizations that work on the center's subject matter of focus. Pursuant to the arguments of the representatives and the State's pleadings, the following activities, among others, may be held in this space:

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<sup>347</sup> Cf. United Nations Security Council Press Statement on Colombia. UN Verification Mission in Colombia, Statement of the Special Representative for Colombia and Head of the United Nations Verification Mission in Colombia, January 28, 2021, and United Nations Security Council Press Statement on Colombia SC/14332. UN Verification Mission in Colombia, October 19, 2020. Likewise, the IACRH's Office of the Special Rapporteur for Freedom of Expression referred to Colombia in its most recent annual report, highlighting that it observed "an increasingly critical climate of violence against the press that translates into a context that seriously restricts freedom of expression and the right of all Colombian society to receive information of high public interest." It added that this climate of violence can be observed in the "the continuity of a context of aggressions, within which there was a high number of episodes of death threats, physical attacks, and intimidation through social networks, text messages, and intimidating calls and pamphlets with intimidating messages." Cf. IACHR. Annual Report of the Inter-American Commission on Human Rights, Annual Report 2019, Volume II—Annual Report of the Office of the Special Rapporteur for Freedom of Expression. OEA/SER.I/V/II. Doc. 5, February 24, 2020, para. 345 and 351. Likewise, Reporters Without Borders ranks Colombia 130 out of 180 countries in the World Press Freedom Index 2020 and affirms that "Colombia continues to be one of the western hemisphere's most dangerous countries for journalists, who are still the frequent targets of death threats, physical attacks, abduction and murder." Cf. Reporters Without Borders. Colombia. Available at: <https://rsf.org/en/colombia>.

- i. Permanent exhibitions on the work of Ms. Bedoya as a journalist and defender of human rights and women's rights, guaranteeing their preservation in the future; as well as on the new investigations, artistic expressions, and other works carried out with regard to the facts, including the impacts that the investigation she was conducting at the time of the facts of May 25, 2000 had on her life and integrity.
- ii. Temporary exhibitions on current and future cases or issues of violence against women and journalism, promoted by civil society, social movements and, in general, people and groups that defend human rights.
- iii. Programs for the dissemination of collective memory, with an emphasis on giving a space and a voice to women in other cases of serious human rights violations, including, for example: forums, screening documentaries, conferences, book presentations, plays, and a website.
- iv. Meetings of journalists and human rights defenders, survivors of violence against women, and other target groups.

191. The aforementioned center must have an adequate budget of at least US\$200,000.00 (two hundred thousand dollars of the United States of America) annually to guarantee its operation and the development of the various activities. At the beginning of each year, the State must reimburse the amounts expended during the previous year up to US\$200,000.00. In addition, the aforementioned center must be provided with a property located in a place that is quick and easy to access.

192. The establishment and launch of this center must be carried out by the State in no more than 18 months from notification of this judgment. The State must annually submit a detailed report on the status of the fund, as well as on the charges to it, for five years from the issuance and submission to the Court of the first report.

*d.2.3 Publication of disaggregated data on gender violence and threats and violence against journalists and human rights defenders in Colombia*

193. The **Court** deems it necessary to collect comprehensive information on the actions of law enforcement personnel in order to understand the true scale of the phenomenon of detentions, searches and seizures and, consequently, design strategies to prevent and eradicate further arbitrary and discriminatory actions. Therefore, the Court orders the State to design immediately, and to implement within one year, through the corresponding state agency, a system for the collection of data and figures on cases of violence against journalists, as well as gender-based violence against women journalists. In addition, the number of cases that were ultimately prosecuted should be specified, identifying the number of charges, convictions and acquittals. The State should publish this information every year in the corresponding report, ensuring that it is accessible to the general public, while keeping the identities of victims confidential. Furthermore, the State must present an annual report to the Court in which it describes the actions taken in this regard for three years following implementation of the data collection system.<sup>348</sup>

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*Cf. Case of Azul Rojas Marín et al. v. Peru, supra, para. 252.*

#### *d.2.4 Fund for prevention, protection, and support of women journalists victims of gender violence*

194. In view of the human rights violations found in this judgment, the **Court** orders the creation of a fund, which must be used to finance programs aimed at prevention, protection, and support of women journalists who are victims of gender-based violence in the exercise of their profession, as well as for adoption of effective protection measures to guarantee the safety of women journalists who are at special risk due to the exercise of their profession, from a gender perspective. This fund shall be in addition to any other currently existing plan or program run by State entities intended for protection, support, and reparation of journalists.

195. The Court establishes, in equity, the amount of US\$500,000.00 (five hundred thousand dollars of the United States of America) for the establishment of this fund. At the beginning of each year, the State must reimburse the amounts expended during the previous year up to US\$500,000. This fund shall be administered by the entity designated by the State. Delegates from the "No es hora de callar" campaign and the Fundación para la Libertad de Prensa shall participate in decisions about the programs it will finance and the allocation of resources.

196. The establishment and launch of this fund must be carried out by the State in no more than 12 months from notification of this judgment. The State must annually submit a detailed report on the status of the fund, as well as on the charges to it, for five years from the issuance and submission to the Court of the first report.

#### *d.2.5 Other guarantees of non-repetition requested*

197. The Court finds that the delivery of this judgment and the other reparations ordered in addition are sufficient and adequate to redress the violations suffered by the victims and does not find it necessary to order the guarantee of non-repetition measures.

### **F. Compensation**

#### *f.1 Pecuniary damage*

198. In general, the **Commission** asked that the State adequately provide both pecuniary and nonpecuniary reparations for the human rights violations declared to the detriment of the victims.

199. The **representatives** requested that compensation be awarded for indirect damages and loss of future earnings in favor of the victims. They indicated that the amount for loss of future earnings could be determined based on the calculation made in the expert opinion of statistician and lawyer Fernando Ruiz.

200. The **State** indicated that the representatives had not presented evidence to demonstrate indirect damages or loss of future earnings.

201. In its case law, the **Court** has developed the concept of pecuniary damage and the situations in which it must be compensated. The Court has established that pecuniary damage involves loss of or detriment to the income of the victims, the expenses incurred as a result of the facts, and the pecuniary consequences that have a causal nexus with the facts of the case.<sup>349</sup>

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<sup>349</sup> Cf. *Case of Bámaca Velásquez v. Guatemala, supra*, para. 43; and *Case of Grijalva Good v. Ecuador, supra*, para. 185.

202. In view of the circumstances of this case, the Court considers it reasonable to order the State to pay compensation for pecuniary damages to both victims. The Court notes that, pursuant to the brief of March 8, 2021, the representatives informed the Court that they "reject[ed]" the presentation of the expert opinion of Fernando Ruiz, which was related to (i) the economic damage caused as a result of the facts of May 25, 2000 and the alleged threats that continued over the last 20 years; (ii) the loss of future earnings of Jineth Bedoya as a result of the facts, and (iii) the impacts that have persisted over the years.<sup>350</sup> Taking into account that the information provided by the representatives does not allow for establishing with certainty the amount of the pecuniary damage caused by the facts examined in this case, this Court sets, in equity, for pecuniary damages, the amounts of US\$25,000.00 (twenty-five thousand dollars of the United States of America) in favor of Jineth Bedoya Lima and USD\$15,000.00 (fifteen thousand United States dollars) in favor of Luz Nelly Lima. The amounts awarded must be paid fully, regardless of the compensation amounts that the victims may have received domestically in the past for any of the facts included in this judgment.

#### f.2      *Non-pecuniary damages*

203. In general, the **Commission** asked that the State adequately provide both pecuniary and nonpecuniary reparations for the human rights violations declared to the detriment of the victims.

204. Regarding non-pecuniary damage, the **representatives** asked that the Court award an "adequate and significant amount based on the seriousness of the damage and based on the evidence set forth over the course of this proceeding." They argued that the Court should use the reparations granted to Jineth Bedoya through the Victims Law to calculate these reparations, as it has done in other cases.

205. The **State** indicated that the domestic legal system provides different routes through which victims can obtain reparations and specified that Ms. Bedoya was recognized and included in the Unified Victims Registry on May 9, 2013 for the victimizing acts of (i) threats, (ii) kidnapping, (iii) torture, and (iv) crimes against freedom and sexual integrity during the armed conflict. Through this process, Jineth Bedoya received, among other things, financial compensation equivalent to 40 current monthly minimum wages. It added that this sum was collected by the beneficiary on October 17, 2014.

206. The **Court** has established in its case law that non-pecuniary damages may include distress and suffering caused directly to the victims or their relatives, like tampering with individual core values, and changes of a non pecuniary nature in the living conditions of the victims or their families.<sup>351</sup> Furthermore, since it is not possible to assign a precise monetary value to non-pecuniary damage, for the purposes of making integral reparation to the victims, compensation may only be provided through the payment of a sum of money or through the delivery of goods and services that can be assessed monetarily, as prudently determined by the Court, applying judicial discretion and the principle of equity.<sup>352</sup>

207. The Court's judgment found demonstrated the profound suffering experienced by both Ms. Bedoya and her mother as a result of the facts analyzed in this case. Likewise, the expert opinion

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<sup>350</sup> Cf. *Case of Bedoya Lima et al. v. Colombia. Call to hearing*. Order of the President of the Inter-American Court of Human Rights of February 12, 2021, Operative Paragraph 2.

<sup>351</sup> Cf. *Case of the "Street Children" (Villagrán-Morales et al.) v. Guatemala. Merits, Reparations, and Costs, supra*, para. 84; and *Case of Grijalva Good v. Ecuador, supra*, para. 190.

<sup>352</sup> Cf. *Case of the "Street Children" (Villagrán-Morales et al.) v. Guatemala. Merits, Reparations, and Costs, supra*, para. 84; and *Case of Grijalva Good v. Ecuador, supra*, para. 191.

issued by Dr. Jario Cortés regarding Ms. Bedoya determined that the attacks she experienced on May 25, 2000 and the previous and subsequent threats suffered "have impacted all areas of her life; and they will continue in the future to cause irreparable harm," adding that "the complications are increasingly more serious and extended."<sup>353</sup> The expert Martha Elena Chinchilla found likewise, stating that Ms. Bedoya continues to present with "chronic" post-traumatic stress disorder.<sup>354</sup>

208. Therefore, considering the circumstances of this case, the violations committed, the suffering caused and experienced in different degrees, and the time elapsed, the Court sets in equity compensation for non-pecuniary damages in favor of the victims.

209. Accordingly, the Court orders, in equity, the payment of US\$90,000.00 (ninety thousand United States dollars), for non-pecuniary damages in favor Jineth Bedoya Lima, as well as the sum of US\$20,000.00 (twenty thousand United States dollars), for non-pecuniary damages in favor of Luz Nelly Lima. The amounts awarded must be paid fully, regardless of the compensation amounts that the victims may have received domestically in the past for any of the facts included in this judgment.

#### **H. Costs and expenses**

210. The **representatives** indicated that FLIP has acted as representatives of the victims in the national and international process since 2010 and requested that they be granted the amount of US\$82,425.00. In their final written arguments, they indicated that "starting from the presentation of the [pleadings and motions brief], FLIP has incurred additional expenses corresponding to the legal work dedicated specifically to this case, which includes researching, compiling, and presenting evidence, preparing documents, and a variety of expenditures to cover the health needs of Ms. Bedoya. In addition, expenses were incurred to "guarantee participation in the virtual public hearing." The total requested for costs and expenses therefore amounted to US\$101,781.00.

211. They likewise indicated that CEJIL has acted as representatives of the victims in the international process since 2013 and requested that they be granted the amount of US\$21,889.16. They added that the expenses listed do not include all those to be incurred by the victims and their representatives in the remainder of the case's processing before the Court, and asked that they be given the opportunity to present updated figures and receipts on the expenses yet to be incurred during the course of the international contentious process. In their final written arguments, they indicated that they had incurred multiple expenses related to "the production of evidence and following up on the process in this case." The total requested for costs and expenses therefore amounted to US\$39,125.02.

212. The **State** objected to the payment of expenses and costs since it maintained that it was not internationally responsible for the facts of this case. Nevertheless, it requested that costs and expenses be limited to the amounts proven by the victims' representatives and that they be strictly related to tasks undertaken with respect to the case in question and that the amount be "reasonable."

213. The **Court** reiterates that, based on its case law,<sup>355</sup> costs and expenses form part of the concept of reparation, because the efforts made by the victims to obtain justice, both at the national and

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<sup>353</sup> Cf. Expert opinion of Jario Enrique Cortés Pinzón given before a notary public on March 5, 2021 (evidence file, folio 40048 and 40049).

<sup>354</sup> Cf. Expert opinion of Martha Elena Chinchilla given before a notary public on March 6, 2021 (evidence file, folio 40041).

<sup>355</sup> Cf. *Case of Garrido and Baigorriá v. Argentina. Reparations and Costs*. Judgment of August 27, 1998. Series C No. 39, para. 82, and *Case of Guachalá Chimbo et al. v. Ecuador*, *supra*, para. 269.

international level, entail disbursements that must be compensated when the State's international responsibility has been declared in a condemnatory judgment. Regarding the reimbursement of costs and expenses, it is for the Court to prudently assess their scope, which includes expenses incurred before the authorities of the domestic courts and those generated during the proceedings before the inter-American system, taking into account the circumstances of the specific case and the nature of the international jurisdiction for the protection of human rights. This assessment may be based on the principle of equity, taking into account the expenses indicated by the parties, provided that their *quantum* is reasonable.<sup>356</sup>

214. Taking into account the amounts requested by each of the organizations and the receipts of expenses presented, the Court establishes in equity the payment of a total amount of US\$30,000.00 (thirty thousand United States dollars) for costs and expenses to FLIP, and a total amount of US\$15,000.00 (fifteen thousand dollars of the United States of America) for costs and expenses to CEJIL. These amounts shall be delivered directly to the organizations. At the stage of monitoring compliance with this judgment, the Court may order the State to reimburse the victims or their representatives for any reasonable expenses incurred during that procedural stage.<sup>357</sup>

### ***I. Reimbursement of expenses to the Victims' Legal Assistance Fund of the Inter-American Court***

215. In 2008, the General Assembly of the Organization of American States created the Victims' Legal Assistance Fund of the inter-American human rights system, in order to "facilitate access to the inter-American human rights system by persons who currently lack the resources needed to bring their cases before the system."<sup>358</sup>

216. In a note of the Court's Secretariat of June 17, 2021, a report was sent to the State on the disbursements made in application of the Victims' Legal Assistance Fund in this case, which amounted to US\$104.88 (one hundred and four dollars of the United States of America and eighty-eight cents) and, as established in article 5 of the Court's Rules of Procedure for the Operation of the said fund, Colombia was granted a deadline for presenting any observations it deemed pertinent. The State presented a brief on June 2, 2021, in which it indicated that it had no observations to make.

217. In accordance with Article 5 of the Fund's Rules of Procedure, and based on the violations declared in this judgment and also that the requirements to access the Fund were met, the Court orders the State to reimburse the Fund in the amount of US\$104.88 (one hundred and four dollars of the United States of America and eighty-eight cents) for the necessary expenses. This amount must be reimbursed within six months of notification of this judgment.

### ***J. Method of compliance with the payments ordered***

218. The State shall make the payments for compensation of pecuniary and non-pecuniary damage, as established in this judgment, directly to the persons and organizations indicated herein, within

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<sup>356</sup> Cf. *Case of Garrido and Baigorria v. Argentina. Merits, Reparations, and Costs*, *supra*, para. 82, and *Case of Montesinos Mejía v. Ecuador. Preliminary Objections, Merits, Reparations, and Costs*, *supra*, para. 244.

<sup>357</sup> Cf. *Case of Ibsen Cárdenas and Ibsen Peña v. Bolivia*, *supra*, para. 29, and *Case of Guachalá Chimbo et al. v. Ecuador*, *supra*, para. 271.

<sup>358</sup> Cf. AG/RES. 2426 (XXXVIII-O/08), Resolution adopted at the fourth plenary session of the General Assembly of the OAS during the 38th regular sessions of the OAS, fourth plenary session, held on June 3, 2008, "Establishment of the Legal Assistance Fund of the Inter-American Human Rights System," Resolving paragraph 2(a), and CP/RES. 963 (1728/09), Resolution adopted on November 11, 2009 by the Permanent Council of the OAS, "Rules of Procedure for the Operation of the Legal Assistance Fund of the Inter-American Human Rights System," Article 1(1).

one year of notification of this judgment, or it may bring forward the full payment, pursuant to the following paragraphs.

219. If the beneficiaries are deceased or die before they receive the respective compensation, this shall be delivered directly to their heirs, in accordance with the applicable domestic law.

220. The State shall comply with its monetary obligations through payment in United States dollars, or their equivalent in local currency, using for the respective calculation the market exchange rate published or calculated by a relevant banking or financial authority on the date closest to the day of payment.

221. If, for reasons that can be attributed to the beneficiaries of the compensation or their heirs, it is not possible to pay the amounts established within the time frame indicated, the State shall deposit these amounts in an account or certificate of deposit in their favor in a solvent Colombian financial institution, in United States dollars, and on the most favorable financial terms permitted by the State's law and banking practice. If the corresponding compensation is not claimed after ten years, the amounts shall be returned to the State with the interest accrued.

222. The amounts allocated in this judgment as compensation for pecuniary and non-pecuniary damages, and to reimburse costs and expenses, shall be delivered in full to the persons and organizations indicated, as established in this judgment, without any deductions arising from possible tax liabilities.

223. If the State should fall into arrears, including with the reimbursement of expenses to the Victims' Legal Assistance Fund, it shall pay interest on the amount owed corresponding to banking interest on arrears in the Republic of Colombia.

**X**  
**OPERATIVE PARAGRAPHS**

224. Therefore,

**THE COURT**

Unanimously,

**DECIDES,**

1. To accept the recognition of international responsibility made by the State, pursuant to paragraphs 24 to 31 of this judgment.

**AND DECLARES,**

Unanimously, that:

2. The State is responsible for the violation of articles 5(2), 5(2), 7, 11, and 13 of the American Convention on Human Rights, in relation to the obligations contained in Article 1(1) of the same instrument, articles 7(a) and 7(b) of the Convention of Belém do Pará, and the articles 1 and 6 of the Inter-American Convention to Prevent and Punish Torture, to the detriment of Jineth Bedoya Lima, pursuant to the terms of paragraphs 86 to 115 of this judgment.

3. The State is responsible for the violation of articles 8(1) and 25(1) of the American Convention on Human Rights, in relation to articles 1(1) and 24 of that treaty, as well as Article 7(b) of the Convention of Belém do Pará, to the detriment of Jineth Bedoya Lima, pursuant to the terms of paragraphs 125 to 147 of this judgment.

4. The State is responsible for the violation of Articles 8(1) and 25(1) of the American Convention on Human Rights, in relation to articles 1(1), 5(1), 11, and 13 of that treaty, as well as articles 1, 6, and 8 of the Inter-American Convention to Prevent and Punish Torture, to the detriment of Jineth Bedoya Lima, in the terms of paragraphs 148 to 153 of this judgment.

5. The State is responsible for the violation of articles 5, 11, 8, and 25 of the American Convention on Human Rights, in relation to Article 1(1) of the Convention, to the detriment of Luz Nelly Lima, in the terms of paragraphs 148 to 153 of this judgment.

6. The State is responsible for the violation of Article 5(1) of the American Convention on Human Rights, in relation to Article 1(1) of the Convention, to the detriment of Luz Nelly Lima, in the terms of paragraphs 158 to 162 of this judgment.

**AND ORDERS:**

Unanimously, that:

7. This judgment constitutes, *per se*, a form of reparation.

8. The State shall, within a reasonable period of time, prioritize and continue the investigations necessary to identify, prosecute and, where appropriate, punish the remaining persons responsible

for the acts of violence and torture that Jineth Bedoya suffered on May 25, 2000, pursuant to the terms of paragraph 172 of this judgment.

9. The State shall, within a reasonable period of time, prioritize and continue the investigations necessary to identify, prosecute and, where appropriate, punish the remaining persons responsible for the threats suffered by Ms. Bedoya before and after the facts of May 25, 2000, as well as those responsible for the attack on Jineth Bedoya and her mother, Luz Nelly Lima, on May 27, 1999, pursuant to the terms of paragraph 173 of this judgment.

10. The State shall adopt all the measures necessary to protect the lives, personal integrity, and security of Jineth Bedoya and of her mother, Luz Nelly Lima, pursuant to the terms of paragraph 174 of this judgment.

11. The State shall issue the publications indicated in paragraph 175 of this judgment.

12. The State shall guarantee the dissemination of the cross-media program "No es hora de callar" for 5 years from its first broadcast, pursuant to the terms of paragraph 179 of this judgment.

13. The State shall pay the amounts stipulated in paragraph 183 of this judgment for rehabilitation.

14. The State shall create and implement, within two years, a plan for training programs and raising awareness among government officials, security forces, and justice officials to ensure that they have the knowledge necessary to identify incidents and manifestations of gender-based violence against women that affect women journalists; protect them when they are in danger; and investigate and prosecute the perpetrators, pursuant to the terms of paragraph 189 of this judgment.

15. The State shall establish the "Centro Investigativo No es Hora de Callar" center for the memory and dignity of all women victims of sexual violence within the framework of the armed conflict and investigative journalism, with specific recognition of the work of women journalists, pursuant to the terms of paragraphs 190 to 192 of this judgment.

16. The State shall design immediately and implement, within one year, through the corresponding State agency, a system for the collection of data and figures on cases of violence against journalists, as well as gender-based violence against women journalists, pursuant to the terms of paragraph 193 of this judgment.

17. The State shall create a fund to finance programs aimed at prevention, protection, and support of women journalists who are victims of gender-based violence, pursuant to the terms of paragraphs 194 to 196 of this judgment.

18. The State shall pay the amounts established in paragraphs 202, 209, and 214 of this judgment as compensation for pecuniary and non-pecuniary damages, and to reimburse costs and expenses, pursuant to paragraphs 218 to 223 of this judgment.

19. The State shall reimburse the Victims' Legal Assistance Fund of the Inter-American Court of Human Rights the sum disbursed during the processing of this case, pursuant to paragraph 217 of this judgment.

20. The State shall, within one year of notification of this judgment, provide the Court with a report on the measures taken to comply with it.

21. The Court will monitor complete compliance with this Judgment, in exercise of its authority and in fulfillment of its duties under the American Convention on Human Rights, and will consider this

case closed when the State has complied fully with all its provisions.

Judge Ricardo Perez Manrique informed the Court of his individual concurring opinion.

DONE, at San José, Costa Rica, on August 26, 2021, in the Spanish language.

I/A Court HR. *Case of Bedoya Lima et al. v. Colombia*. Merits, reparations and costs. Judgment of August 26, 2021. Judgment adopted in San José, Costa Rica, in a virtual session.

Elizabeth Odio Benito  
President

L. Patricio Pazmiño Freire  
Poisot

Eduardo Ferrer Mac-Gregor

Eugenio Raúl Zaffaroni

Ricardo C. Pérez Manrique

Pablo Saavedra Alessandri  
Secretary

So ordered,

Elizabeth Odio Benito  
President

Pablo Saavedra Alessandri  
Secretary

**CONCURRING OPINION OF**  
**JUDGE RICARDO C. PÉREZ MANRIQUE**  
**CASE OF BEDOYA LIMA ET AL. V. COLOMBIA**  
**JUDGMENT OF AUGUST 26, 2021**  
**(*Merits, Reparations, and Costs*)**

**I. INTRODUCTION**

1. The judgment declares violations of articles 1(1), 5(1), 5(2), 7, 11, and 13 of the American Convention on Human Rights (hereinafter the "Convention") in relation to the obligations to respect and guarantee rights without discrimination and the duty to adopt domestic legal effects, established in articles 1(1) and 2 of the Convention. The case entails a series of human rights violations stemming from threats against and kidnapping, torture, and rape of journalist Jineth Bedoya Lima for reasons related to her profession and the State's failure to adopt adequate and timely measures to protect her and prevent the facts from taking place.
2. I hereby concur with the provisions of the judgment and issue this opinion to go into further depth in the analysis of Ms. Bedoya's right to freedom of expression as a woman journalist. Because she is a woman journalist, she has been the victim of threats, kidnappings, harassment, and violations of her rights as forms of intimidation since the very start of her career. I therefore deem it is necessary to define clear guidelines and precise international standards for investigating these crimes against female journalists who are victims with regard to the exercise of their freedom of expression.
3. To this end, this opinion is structured as follows: First, freedom of expression is analyzed as a pillar of the rule of law and of a democratic society, and the conditions for exercising journalism during an armed conflict like the one in Colombia are succinctly addressed. Second, the case is approached from the perspective of the right to freedom of expression in the case of a female journalist, specifically the rape of and threats against Ms. Bedoya. Third, the State's duties to protect women journalists are presented, emphasizing the obligation to implement comprehensive measures for prevention, protection, and administration of justice.

## **II. FREEDOM OF EXPRESSION, A PILLAR OF THE RULE OF LAW**

4. The judgment establishes in its paragraphs 107 and following that the State is internationally responsible for the violation of Ms. Bedoya's right to freedom of thought and expression, enshrined in Article 13 of the Convention. It is noted that "the provision protects the right to seek and receive ideas and information of all kinds, as well as to know and receive information and ideas disseminated by others."

5. It has also noted that freedom of expression includes two dimensions: an individual dimension and a social dimension. Specifically, as regards the professional exercise of journalism, "it cannot be differentiated from freedom of expression. On the contrary, both are obviously intertwined, for the professional journalist is not, nor can he be, anything but someone who has decided to exercise freedom of expression in a continuous, regular and paid manner."

6. For this reason, when analyzing the scope of the right to freedom of expression, its recognition establishes for the State the positive obligation to guarantee its free exercise, amounting to an obligation to prevent violence against journalists and "protect those who are at special risk due to the exercise of their profession and to investigate, prosecute, and punish, with due diligence, those responsible for these acts of violence."<sup>1</sup>

7. The intimidating and chilling effect of constant threats to journalists harms democratic society. In this regard, the RELE has indicated in its report "Silenced Zones" that "impunity has a strong chilling effect on the exercise of freedom of expression, and its consequences for democracy—which depends on the free, open and dynamic exchange of ideas and information—are particularly serious."<sup>2</sup> Also, IFEX indicated in its *Amicus Curiae* brief that "The aspects silenced by this intimidating effect include reporting on other violence, including the violence itself against the press, generating a cycle of impunity (...) Impunity for attacks on journalists has a chilling effect on the victims and society. The fear of these persons is

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<sup>1</sup> Testimony of Dr. Catalina Botero.

<sup>2</sup> Office of the Special Rapporteur for Freedom of Expression, "Silenced Zones: Highly Dangerous Areas for the Exercise of Freedom of Expression," pg. 12.

joined by a chilling environment that enables the perpetrators of such attacks."<sup>3</sup>

8. Along these lines, as expressed by expert Juan E Méndez in his opinion, the work of human rights defenders is "fundamental for strengthening of democracy and the rule of law." The defense of human rights can only be exercised freely when human rights defenders "are not subjected to threats or physical, mental or moral aggression or other acts of harassment." Likewise, journalism work "is a cornerstone upon which the very existence of a democratic society rests," and therefore fundamental for pluralism and tolerance.<sup>4</sup>

### **III. FREEDOM OF EXPRESSION IN A STATE DEAL WITH ARMED CONFLICT**

9. "Freedom of expression is not easy in Colombia," testified witness Jorge Cardona when asked about this issue at the hearing.

10. In this sense, "The Constitutional Court of Colombia has recognized that sexual violence against women in the context of the armed conflict was a common, widespread, systematic, and generalized practice,<sup>5</sup> a context that has affected women journalists, as the United Nations has recognized."<sup>6</sup>

11. The challenges of considering measures to guarantee the safety of journalists<sup>7</sup> increase considerably in the context of armed conflicts, in which violence against women (especially sexual violence) is more serious and systematic. Clarifying the differentiated impact of such violence on the individual and collective dimension of freedom of expression is the specific challenge facing the Court in this case.

12. Examples such as that the person in charge of guarding Ms. Bedoya was arrested for committing kidnappings, or the DAS as a tool of control and surveillance instead of fulfilling its mission to protect, demonstrate that the State did not fulfill its obligations to respect and guarantee rights, instead becoming part of the

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<sup>3</sup> *Amicus Curiae* contributed by the IFEX Global Network for the case of Jineth Bedoya Lima *et al.* v. Colombia (paragraph 25).

<sup>4</sup> Page 8 of the expert opinion issued by Juan E. Mendez.

<sup>5</sup> Constitutional Court of Colombia. Order 092 of 2008.

<sup>6</sup> From words to actions: The experience of the UN Special Political Missions in Colombia on women, peace and security (2016-2020). Report of the United Nations Verification Mission in Colombia, pg. 30.

<sup>7</sup> United Nations Security Council. Resolution 2222 of May 27, 2015.

mechanism for their violation. These practices even amounted to the violation of other rights with consequences for the exercise of freedom of expression. Next, the specific situation of Ms. Bedoya and the violation of her right to freedom of expression for being a woman journalist will be analyzed.

#### **IV. THE SITUATION OF JINETH BEDOYA AND THE VIOLATION OF HER RIGHT TO FREEDOM OF EXPRESSION FOR BEING A WOMAN JOURNALIST**

13. Ms. Bedoya suffered several violations of her rights due to being a journalist that affected her ability to express herself. Thus, in her testimony, Ms. Bedoya indicates that "after May 25, everything was really very confusing, very difficult because it was impossible to continue living in Colombia knowing that the threat was still there." She even stated that her communications have been intercepted for 21 years and "there was a very difficult moment in which I made the decision to commit suicide, but being able to continue doing journalism thanks to the opportunity they gave me in *El Espectador*, made me decide to concentrate one hundred percent on my journalism work, during all these years I focused on documenting the Colombian armed conflict and doing investigations and reporting." What's more, she asserts that the threats continue to this day.

14. Regarding the State's obligation to investigate the crimes committed, Ms. Bedoya indicated that "the investigation by the State has not moved forward (...) For me this is only an example of corruption, not just in this case, but the corruption in general linked to drug trafficking and crime that unfortunately has fueled impunity in Colombia. My case has not been the exception," said Ms. Bedoya in her statement.

15. Regarding the forms of violence that women journalists experience, it is worth noting the expert testimony of Michael Forst with Jineth Bedoya's statements in a hearing before the Court in which he affirms that "a powerful way to attack women human rights defenders is to damage their 'honor' or reputation by subjecting them to sexual violence. Threats and violence against women human rights defenders are used as a form of punishment for speaking the truth to power and are intended to make examples of them for their actions and for being women."<sup>8</sup>

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<sup>8</sup> Statement of Michel Forst before the Inter-American Court of Human Rights and original plaintiff in

16. Women journalists disproportionately suffer different types of violence, whether in the exercise of their work or over digital channels. The questions that arise are: How are they affected and what are the consequences for freedom of expression? Is the social debate and the quality of democracy impoverished? Violence against women journalists has a chilling effect, reinforced when such attacks remain in impunity. Among other possible effects, violence against women journalists and the subsequent impunity can discourage them from continuing their journalism careers or from working on certain issues. As has been established in the *Case of Palamara v. Chile*, "this type of violence against journalists can have a negative impact on other journalists who must cover events of this nature, who fear suffering similar acts of violence."<sup>9</sup>

17. The difficulty faced by women journalists in particular is also clear from the data emerging from the report "Gender-based violence against women journalists in Colombia," which found that: 6 out of 10 women journalists have experienced some incident of gender-based violence, and even when they are not direct victims, 77.9% said they knew of incidents of gender-based violence against one of their colleagues.<sup>10</sup>

18. The Court highlighted in the *Case of Carvajal Carvajal et al. V. Colombia* that "because they are in close proximity to the contexts of intense political and armed violence, local and regional media are more vulnerable to aggression, pressure or persecution by those engaged in the conflict and the war."<sup>11</sup> Furthermore, specifically in the case of Colombia, it was found in 1998 to be "the most deadly place for the press in the world."<sup>12</sup> The IACtHR's Special Rapporteur for Freedom of Expression noted in his most recent annual report that Colombia has an "increasingly critical climate of violence against the press."<sup>13</sup> In addition, Reporters Without Borders considers Colombia "one of the western hemisphere's most dangerous countries for journalists."<sup>14</sup> The Fundación para la Libertad de Prensa recently

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<sup>9</sup> *Bedoya Lima y Otra v. Colombia*, CASE No. 12,954, March 2021, France, para. 24.

<sup>10</sup> Cf. *Case of Palamara Iribarne v. Chile. Merits, Reparations, and Costs*, Judgment of November 22, 2005, Series C No. 135, para. 68, and *Case of Vélez Restrepo and Relatives v. Colombia*, para. 139.

<sup>11</sup> Report "Gender-based violence against women journalists in Colombia," November 11, 2020.

<sup>12</sup> Cf. *Case of Carvajal Carvajal et al. v. Colombia. Merits, Reparations, and Costs*. Judgment of March 13, 2018, para. 32.

<sup>13</sup> Cf. *Case of Carvajal Carvajal et al. v. Colombia. Merits, Reparations, and Costs*. Judgment of March 13, 2018, para. 167.

<sup>14</sup> IACtHR, Annual Report 2019, Report of the Office of the Special Rapporteur for Freedom of Expression, 2019, para. 345.

<sup>15</sup> Reporters without Borders, profile of Colombia. Available at: <https://rsf.org/en/colombia>.

reported that 853 journalists had received threats between 2017 and 2018.<sup>15</sup> Women journalists, like their male colleagues, face an array of risks due to their work: censorship, assassinations, threats, internal displacement, among others.

19. Along these lines, the Inter-American Commission on Human Rights has recognized that these groups of women are doubly attacked, for exercising freedom of expression and for their gender: Office of the Special Rapporteur for Freedom of Expression, "Women Journalists and Freedom of Expression: Discrimination and Gender-Based Violence Faced by Women Journalist in the Exercise of their Profession".

20. It is noted that it is "relevant to indicate that violence against women journalists has a different character, the result of stereotypes and the *machista* culture that persists in a significant part of the Americas and Colombia. This distinction plays a fundamental role in cases like this, given that 'gender-based violence, that is, violence directed against a woman because she is a woman or violence that affects women disproportionately, is a form of discrimination against women.'"<sup>16</sup>

21. The need to address the issue from a gender perspective is essential. Clearly, Ms. Bedoya in her testimony indicates that these issues must "be reviewed with a gender perspective. Women are singled out and intimidated not because they are journalists, but because they are women. If on May 25 it had not been Jineth Bedoya but Pedro Pérez, they would have sent me a hit man, but since I was Jineth they tortured and raped me. They cannot continue punishing us."

22. In her expert witness report, Dr. Viseurs Sellers stated: "acts of violence against women journalists are not isolated incidents, but rather such gender-based violence is symptomatic of a pattern of structural discrimination against women rooted in stereotypes of female inferiority. Women journalists in Latin America already face certain obstacles and violence; however, these obstacles and violence are exacerbated as a result of gender inequalities for the fact of their being women."

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<sup>15</sup> FLIP, *Callar y Fingir, la censura de siempre*, annual report 2019, February 2020.

<sup>16</sup> *Amicus Curiae* contributed by the IFEX Global Network for the case of Jineth Bedoya Lima *et al.* v. Colombia, para. 25.

23. This situation is associated with harmful gender stereotypes as indicated in the expert report by Juan Méndez: "Women journalists and human rights defenders face different types of differentiated risks due to the dynamics of discrimination and gender stereotypes. Women human rights defenders and journalists are particularly at risk of being threatened because of their reporting. Due to their visibility, there are attempts to silence them and targeted attacks aimed at discouraging broader dissent."

24. Before addressing the reparation measures in relation to the protection of the right to freedom of expression of women journalists, I end this chapter with what Ms. Bedoya indicated regarding the exercise of her profession: "Journalism has been my lifeline in every way, but doing it under the conditions in which I have had to do it is humiliating and re-victimizing because I have to devise a thousand ways to be able to document, to be able to investigate, to be able to plumb the depths of Colombia, which is where I do my investigations and where I do my reporting. To continue risking my life, but above all to continue subjecting my mother to that anguish—that her daughter leaves home one morning to do her journalism and at night she may not return."

Jineth Bedoya was investigating the facts of the case and continued to do so, cases that involved, as she has said, corruption, drug trafficking, organized crime, and cooperation and complicity between State authorities, paramilitaries, and criminal groups. Also, the guerrilla groups. For this reason, her voice was bothersome, and attempts were made to silence her without success using threats, kidnapping, rape, and all manner of intimidation.

## **V. DUTIES OF THE STATE REGARDING WOMEN JOURNALISTS: COMPREHENSIVE MEASURES OF REPARATION**

25. "***Reviewing the work that we women communicators do from a gender perspective would be a crucial step forward for this hemisphere,***" Ms. Bedoya said in her statement at the hearing.

26. The European Court of Human Rights (ECHR) has found that States are required to "put into practice an effective system of protection for authors and journalists" as part of the obligation to establish an environment that fosters public debate and facilitates the

expression of any opinion or idea without fear.<sup>17</sup>

27. Along the same lines, IFEX highlights that the State response to violence against women journalists is part of an enhanced duty of due diligence aimed at preventing, punishing, and eradicating violence against women for those States that, in addition from being parties to the American Convention on Human Rights, are parties to the Convention of Belém do Pará. Thus, States must "adopt comprehensive measures to act with due diligence in cases of violence against women. Specifically, they must have an appropriate legal framework for protection that is enforced effectively, and prevention policies and practices that allow effective measures to be taken in response to the respective complaints."

28. States must establish or develop institutions whose competence is the safety of journalists and the support they need to implement international principles and rules domestically.

29. The objective is to guarantee effective and adequate measures of protection for journalists, particularly taking into account the case of female journalists when the retaliation is sexual violence. Along these lines, as Dr. Catalina Botero indicated in her testimony, "States have an obligation not only to protect at-risk journalists, but also to guarantee that the protective measures adopted are effective and adequate. In this sense, when measures are adopted to protect journalists from the credible threat of damage to his or her physical integrity, the measures must take into account the needs specific to the profession of the beneficiary the beneficiary's gender, and other individual circumstances."<sup>18</sup>

30. Along the same lines, Expert Juan Méndez indicated with regard to protection measures that they are not limited "to establishing a program that grants physical protection schemes, but to establishing a legal framework that provides the best guarantees for inter-institutional cooperation on prevention, protection and punishment."

31. Likewise, in relation specifically to the measures that the States must take regarding conditions and practices favoring freedom of

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<sup>17</sup> ECHR, *Dink. vs Turkey*, Nos. 2668/07, 6102/08, 30079/08, 7072/09 and 7124/09, judgment of September 14, 2010, para. 137.

<sup>18</sup> IACtHR, Annual Report 2013. Report of the Office of the Special Rapporteur for Freedom of Expression. Chapter III, Violence Against Journalists and Media Workers: Inter-American Standards and National Practices on Prevention, Protection and Prosecution of Perpetrators. OEA/Ser.I/V/II 149. Doc. 50, of December 31, 2013, para. 72.

expression, States have three positive obligations: to prevent, protect, and investigate and criminally punish those responsible.<sup>19</sup> The United Nations Plan of Action on the Safety of Journalists and the Issue of Journalists establishes enhanced obligations for States, as follows: (a) the obligation to instruct State security forces to adopt adequate protection mechanisms to avoid violence against those who work in the media; (b) the obligation to investigate, prosecute, and criminally punish those who carry out acts of violence against journalists and media workers; (c) the obligation to protect journalists and media workers who are exposed to a special, real and imminent risk with respect to their fundamental rights; (d) in the event of structural and systematic violence in the country against journalists and media workers, States must establish special protection programs that guarantee the exercise of their journalism activities.

32. Lastly, "generally speaking, the authorities do not connect the crimes committed against journalists to their profession (...). In particular, regarding violence against women journalists, there are no adequate systems for documenting complaints and investigations in Colombia."<sup>20</sup> Therefore, in order to secure adequate justice for the freedom of expression of women journalists, the State has the obligation to investigate evidence of the participation of State agents in such facts and to implement mechanisms to prosecute crimes against journalists.

## **VI. CONCLUSION**

33. In order to guarantee the safety of journalists, the State has the obligations to PREVENT, PROTECT, and SEEK JUSTICE.<sup>21</sup> Such obligations demand intervention from a gender approach.<sup>22</sup>

34. The State has a duty to guarantee the exercise of free, independent and plural journalism, which includes the opportunity to do journalism work in safety and, in the case of women journalists, guaranteeing they can engage in their professions free from moral, psychological, and sexual harassment and sexual violence.

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<sup>19</sup> *Amicus curiae* of the Universidad de la Sabana.

<sup>20</sup> Testimony of Dr. Catalina Botero.

<sup>21</sup> United Nations Plan of Action on the Safety of Journalists and the Issue of Impunity. [https://en.unesco.org/sites/default/files/un-plan-on-safety-journalists\\_en.pdf](https://en.unesco.org/sites/default/files/un-plan-on-safety-journalists_en.pdf). See specific recommendations at [https://digitallibrary.un.org/record/3870659/files/A\\_HRC\\_44\\_52-ES.pdf](https://digitallibrary.un.org/record/3870659/files/A_HRC_44_52-ES.pdf)

<sup>22</sup> [https://www.oas.org/en/iachr/expression/docs/reports/2014\\_04\\_22\\_violence\\_web.pdf](https://www.oas.org/en/iachr/expression/docs/reports/2014_04_22_violence_web.pdf)

35. Journalists must have the necessary freedom to exercise their profession. Ms. Bedoya indicated by way of example that it is not possible to do investigative journalism with a police officer by their side.

36. In this case, the attacks on Ms. Bedoya's rights occurred in the context of an internal armed conflict and while she was investigating events that affected relations between the government and the paramilitary groups. Subsequently, Ms. Bedoya, in the course of another investigation, was kidnapped by a guerrilla group. In her statements, she has indicated that over more than twenty years of practicing journalism, she has been continuously subjected to surveillance and attacks, demonstrating that being a woman journalist in Colombia is an extremely dangerous profession.

37. Today, there are new ways of attacking women journalists. Violence is exercised against them online through smear campaigns and false accusations, all aimed at intimidating, silencing, and shutting up voices that are essential to society. This type of violence must be addressed through adequate and effective responses.<sup>23</sup>

38. The perspective and the story that a woman contributes to the democratic debate are essential for the rule of law. The different forms of violence against them tend to impoverish the public debate by silencing their voices. Such violence also amounts to a violation of the social dimension of the right to freedom of expression and access to information.

39. In this case, the State of Colombia failed to comply and fell short in its duties to prevent, protect, and seek justice.

40. Clearly, in the process of investigating the facts, it did not act with due diligence; Ms. Bedoya was revictimized through multiple interrogations, and institutional violence was exercised by the State. The masterminds have gone unpunished.

41. This judgment is, on the one hand, the verification and consequent declaration of the international responsibility of the State of Colombia and provides measures of reparation that tend to encourage actions and policies aimed at preventing repetition of facts like the ones presented in this case.

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<sup>23</sup> See in this regard: <https://unesdoc.unesco.org/ark:/48223/pf0000375136>

42. It is an acknowledgment that an enormous number of women journalists suffer sexual assaults, all manner of harassment, displacement, and serious harm intended to silence their voices and instill fear, causing self-censorship by intimidation.

Ricardo C. Pérez Manrique  
Judge