

2015 INTER-AMERICAN MOOT COURT COMPETITION

Case of Bolt *et al.* v. the Cardenal Republic

I. The Cardenal Republic and the Boneca Indigenous People

1. The Boneca Indigenous People have traditionally resided on ancestral lands that were colonized by Spain. Centuries later, the independent republics of Cardenal and Celeste, formed in the struggle for American independence, agreed to divide the area and entered into border treaties with one another. Both the Cardenal Republic and the Celeste Republic are founding members of the OAS and have ratified all of the organization's human rights treaties. The Cardenal Republic has also ratified the Statute of the International Criminal Court and the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity. Currently, the Cardenal Republic has a population of 100 million inhabitants. According to the most recent census, 4.5% of the total population is considered to belong to some ethnic group and, within that percentage, 90% belong to the Boneca People.

2. In the 1960s, the Cardenal Republic was ruled by a military dictatorship with an assimilationist policy. Hundreds of thousands of Bonecas were massacred, their authorities murdered, banned, and persecuted, and a large part of their territory was confiscated. In addition, the socioeconomic conditions of the Boneca People have been below the national average.

3. Starting in the 1980s, the social conditions in the area began to involve complaints, demonstrations, and social protests by members of the Boneca community, with the aim of recovering their ancestral lands. These actions were repressed through the use of force and the criminal law. Since then, leaders and members of the Boneca community have been investigated and prosecuted for the commission of ordinary crimes in relation to violent acts associated with the social protests, and some of them were investigated and convicted of terrorism offenses. The case against the leaders was essentially conducted in writing and the evidence was heard by an investigating judge, who was in charge of then prosecuting the case before another judge responsible for determining guilt or innocence. Multiple restrictions on the exercise of the right of defense were reported. Terrorism offenses could carry penalties of up to 50 years in prison.

II. The military dictatorship, armed conflict and the peace process

4. In April 1990, a group of people from the region—some indigenous, others not—formed the armed group called the *Movimiento Revolucionario Libertad Boneca* [Boneca Freedom Revolutionary Movement] (MRLB). One of their fundamental platforms was the overthrow of the existing order and the implementation of a Communist State in which “the right to the free self-determination of peoples will be respected,” including that of the Boneca People. Their armed actions were conducted under a guerrilla warfare strategy.

5. During the 1990s, especially in the Boneca region, a vicious armed conflict unfolded in the country between this guerrilla group and the armed forces of the Cardenal Republic. As a result of the armed conflict, more than 250,000 people lost their lives, more than 50,000

people were disappeared, and thousands of others were the victims of torture, sexual violence, child recruitment, and forced displacement.

6. Toward the end of the decade, presidential elections were held that were marked by alleged terrorist acts and conflict that caused significant national upheaval. Strong anti-guerrilla and anti-Boneca sentiment arose, especially in the urban centers. The candidate of the Restoration Party, Armando Ferreira, won the elections on a platform of strengthening law enforcement in order to defeat the guerrillas militarily. The candidate enjoyed historic levels of support at the polls, except in the Boneca region.

7. The Ferreira administration implemented a Security Law that granted broad authority to the military, including powers of judicial investigation, confidential operational control delegated to high-ranking military officers, the ability to assume regional government functions, displacing civilian governors when deemed necessary by the military high command and, later, the use of military tribunals to prosecute crimes relating to terrorist activities, including for civilians.

8. Toward the middle of the decade, the Government sought to have Congress pass a constitutional amendment that would allow for the immediate reelection of the president, which was denied. Ferreira, who enjoyed the approval of more than 80 percent of the electorate, declared a “self-coup.” With the backing of the armed forces, he dissolved Congress, took over the judiciary, and convened a constitutional convention that, through a plebiscite amendment, allowed for his immediate reelection—which was ratified at the polls with the favorable vote of 90% of the electorate.

9. In the following years, the conflict intensified. The reports of government repression increased sharply, especially acts of persecution against the “intellectual leaders” or “civilian supporters” of the guerrillas. Students, trade unionists, leftist and popular leaders, as well as any other person who did not share the government’s politics, were stigmatized and persecuted for alleged ties to the guerrillas. In view of the military offensive, the guerrillas retreated and turned to strategic attacks carried out against both military installations and what they called “standard centers of imperialism,” which included public infrastructure, as well as social clubs and schools attended by wealthy individuals. The kidnapping of civilians for ransom also increased.

10. In 2006, the confrontations continued on a large scale, but neither of the two parties seemed close to reaching its objective. Even though President Ferreira remained quite popular and received the support of a good part of the population, a broad sector of society began to seek alternatives for peace. A political crisis associated with serious corruption allegations finally caused Ferreira to have to leave office and agree to new presidential elections for his replacement. At the time, it was practically impossible to think of judicially investigating official acts constituting human rights violations. First of all, during the Ferreira-controlled Congress, a Military Criminal Code was enacted that turned nearly all acts committed during the course of the conflict into offenses subject to military investigation. In that jurisdiction the cases rarely advanced to the trial stage. In addition, Ferreira and the military commanders were covered by a special privilege requiring the political support of both houses of Congress in order for them to be arrested and for a criminal investigation to proceed.

11. In 2006 Gabriela Nunes took office as the new president, with a platform based on the political negotiation of peace. The Nunes administration did little to promote the investigation and punishment of the crimes committed by the Ferreira dictatorship. In the Government's opinion, an agreement providing a definitive solution to the conflict should ensure transitional justice mechanisms with respect to all of the events and actors in the armed conflict. The Government promised to bring about a convergent scenario of dual transition, through both of the reaffirmation of the transition from the dictatorship to democracy, and the transition from conflict to peace.

12. After two years of negotiations, the MRLB and the Government reached an agreement based on three points: autonomy of the regions and recognition of the Boneca People, democratic constitutional reform, and transition mechanisms to guarantee both peace and the rights of victims.

13. The parties agreed that peace should be built starting from the regions. Part of the agreement was focused on mechanisms for the decentralization of national power, recognition of the autonomy of the regions, and mechanisms for decentralizing budget decision-making. The State modified the assimilationist focus of its policy and ratified ILO Convention No. 169. In addition, the Government agreed to a specific program for issuing land titles to Boneca communities.

14. An assembly was also held to reform the constitution, which has been lauded by specialists on the issue. First, it dealt with a foundational process that proposed a break from the repressive past and was characterized by being genuinely democratic, discussed and endorsed by a majority of the population. Second, the new constitution gave a particular scope to the ethnic diversity and autonomy of ethnic communities, establishing the Cardenal Republic as a Plurinational Republic. Third, the Constitution modified the model of the relationship between the State and the economy, recognizing social rights and attributing a predominant role to the State in directing the economy in order to attain social justice. After the conflict, the Cardenal Republic has experienced difficult economic conditions and the collapse of its infrastructure, as well as widespread social inequality and regional disparity. The Cardenal Republic is the second poorest country in the American hemisphere, and the most unequal in terms of income and the concentration of land ownership.

15. The discussion with respect to mechanisms for establishing the facts and obtaining justice was complex. The members of the guerrillas and members of the military involved in human rights violations asked for a policy of forgiveness and forgetting. The Government refused, on the grounds that legal and ethical imperatives required victims' rights to have the highest possible priority in the negotiations.

16. Simultaneously with the initiation of the peace talks, the Government strengthened the victims' organizations in order for them to take part in the dialogues. It undertook a consultation process with these organizations regarding their expectations for peace, justice, and reconciliation. Their suggestions were processed and presented at the negotiating table.

17. In addition, the parties agreed at the negotiating table to various policies to satisfy the rights of the victims. These included the creation of a Historical Truth Commission that

would draft a report on what happened and make it possible to unearth the truth surrounding the reasons, motives, and patterns of serious violations of human rights and international humanitarian law. They also agreed to forums for the participation of victims in the planning, execution, and monitoring of the policy, as well as broad measures for access and participation in the public sessions of the Truth Commission and in the criminal proceedings. The agreement also included a policy of individual and collective reparations that additionally recognize the components of restitution, compensation, satisfaction, rehabilitation, and guarantees of non-repetition. This policy is being carried out by the Ministry of Victims and Reconciliation, which is responsible for administering the programs, including the financial compensation program that is granted to the victims on an individual basis, according to a victims' registry, as either a lump sum payment or as a pension.

18. The Government promoted a holistic approach to transitional justice in which, given the imperatives of peace and justice and the practical and political limitations arising from the negotiated end to the armed conflict, it was necessary to not focus exclusively on one measure or form of justice. Within this plan, the Government's position was that the components of justice should have a measure of punitive justice, but that it should be limited and selective, as it would be impossible to investigate all of the serious human rights violations, or punish all of the perpetrators, or impose the ordinary penalties. Therefore, the Accountability, Closure, and Reconciliation Law was proposed with the following components.

19. The bill started by recognizing the duty of the State to investigate, prosecute, and punish serious human rights violations and serious violations of international humanitarian law. At the same time, it was also based on the premise that in a transition process this duty faces practical and political limitations in regulating it in such a way as to allow peace without infringing on the rights of the victims. It also recognized the need to establish clear and objective criteria for setting the rules of operation in the proceedings to establish individual criminal responsibility, including the criteria of selectivity, prioritization, identification of the "most responsible" parties, equality, and others.

20. The bill granted an unconditional amnesty to all combatants who may have been prosecuted or may be prosecuted in the future for the act of armed rebellion, as well as for related offenses, with the exception—for purposes of criminal action—of offenses constituting serious human rights violations or serious violations of international humanitarian law, such as genocide, war crimes, and crimes against humanity.

21. The bill additionally established a model for the prosecution of the most serious violations. The system was mixed in the sense that it involved the participation of both the judicial system and the Truth Commission. Under this model, the different fronts of the group had to begin by assisting the Truth Commission which, based on their accounts, information from official sources, and the contributions of victims, identified general and regional patterns of victimization. The Public Ministry opened criminal investigations through "mega-cases" investigating the criminal patterns and then publishing reports. Subsequently, based on the principles of selectivity and prioritization, the "most responsible" were identified by three criteria: (i) level of leadership (*de jure* and *de facto*); (ii) degree of responsibility; and (iii) position of control and capacity for effective control. At the same time, this information would be used

to identify the most serious and emblematic cases, based on four criteria: (i) intrinsic nature of the conduct; (ii) scale; (iii) modality, and finally, (iv) impact of the crime.

22. A high-level commission presided over by the Head of the Public Ministry, and which involved the participation of the Government, representatives of demobilized combatants, victims, and the international community through representatives from the guarantor countries of the process, evaluated this information and identified the cases and perpetrators to be prosecuted. This mechanism included both members of the guerrilla and members and former members of law enforcement, and popular and indigenous leaders convicted or investigated for terrorism-related crimes.

23. In total, 14 patterns were identified from an in-depth study of 236 acts, and 67 individuals were named as the “most responsible” perpetrators—including the entire central command of the guerrillas (comprised by six individuals), three former commanders of the armed forces, and two former Ministers of War. Respected national political analysts and historians coincide in their positive assessment of the representative nature of the selection process.

24. For persons who may have been presented before the Truth Commission but not selected, it was established that the State would waive criminal prosecution and they would therefore not be subject to judicial investigation. However, a free, prompt, and easily accessible judicial mechanism was established so that victims could request the judicial review of any kind of waiver of prosecution that was granted. All in all, 354 requests for review were filed and the Court upheld the decision of the high-level commission in 97% of the cases examined.

25. With respect to punishment, the parties agreed upon the possibility of implementing several alternatives to the ordinary sentences (which consisted of imprisonment for a term ranging from 60 years to life) for those individuals who had been selected to be criminally investigated but had contributed effectively to the pursuit of peace and justice through their statements to the Truth Commission. These alternative sentences included: imprisonment in alternative detention centers with the opportunity to perform political work for a maximum of 8 years and a minimum of 4, depending upon the assessment of the sentence by the judge; landmine clearance; mandatory participation in alternative restorative justice processes; penalties involving the deprivation of rights or disqualifications (to drive vehicles, for example); economic sanctions and monetary penalties, such as fines and assessments on income, calculated per day; the seizure and forfeiture of assets; court monitoring and probation programs; community service; the obligation to report periodically to a specific center; and house arrest.

26. All of the transition measures agreed to at the negotiating table were passed by a majority vote in Congress, including the enactment of the Accountability, Closure, and Reconciliation Law. In addition, the agreements reached in the negotiations were ratified by popular referendum with the approval of 95% of voters, although 40% of eligible voters abstained. The abstention rate in the Cardenal Republic, where voting is not mandatory, has always hovered around 50 to 60%.

27. In spite of this approval, given their nature, the measures have been very controversial. The policy of truth has been criticized by a sector of society that believes that

erasing what happened will only fuel the reactivation of hatreds and keep old wounds open, thus closing the doors to reconciliation and stirring up conflict, hatred, and revenge. Other sectors criticized the policy of prosecution, being of the opinion that it would not create sufficient incentives for combatants to demobilize. They argued that offering jail time would not convince anyone who had money and power to reintegrate into civilian life, and that they would therefore only rearm in smaller organized crime factions. Others, on the contrary, argued that the reduced sentences and waivers of prosecution were a covert amnesty. A similar thing occurred with respect to reparations. In the opinion of some, the reparations were very low and did not cover everything they should (for example, the payment to a person who had lost a relative is US \$20,000 and the payment for displacement is US \$5,000). Others criticized the fact that the State would pay for the crimes committed by guerrillas who fought against it, and who the State had the sole intention of defeating militarily. Former President Ferreira's group is the one that has used this argument the most, and it has even filed legal actions against the new government to hold it accountable for the misappropriation of public funds.

28. The peace agreement has generally been accepted by a majority of the public, although with criticism. In the opinion of one radical segment of the Boneca People, the agreement is unsatisfactory because they are claiming their absolute independence from the Cardenal Republic. Moreover, this sector has rejected the "Westernized" justice mechanisms for being contrary to their tradition forms of conflict resolution. Based on experiences such as those of the *Gacaca* Courts of Rwanda, the *Magamba* spirit ceremonies in Mozambique, the traditional practices of the *Acholi* region of Northern Uganda, the *Kpaa Mende* practices in Sierra Leone, the institution of *Bashingantabe* in Burundi, the indigenous justice measures in South Africa, and the *Lisan* practices in East Timor, Boneca communities have initiated traditional justice proceedings both for offenders belonging to their own community and for outsiders—including those individuals who have already been dealt with through the official transition mechanisms.

III. The case of the kidnapping of the "little angels"

29. At the beginning of 1999, the MRLB began attacking strategic targets that represented what it considered to be the "racist oligarchy" in the cities. The strategy entailed kidnappings for ransom, bomb attacks against factories, corporations, and social clubs, as well as targeted murders.

30. In January of 2000, an urban column of the MRLB hijacked a school bus carrying 23 children from the Angeles del Saber School, one of the most expensive private schools in the capital of the republic. They were held captive for more than 90 days. The news of the kidnapping of young children shocked the nation and caused widespread fear among parents, who refused to let their children leave their homes.

31. The captors identified themselves as members of the MRLB and, in exchange for the children's freedom, demanded a monetary payment, the release of individuals detained for acts of rebellion and terrorism offenses, and guarantees of safe passage to a neutral country in order to enter into peace talks with the Government.

32. President Ferreira refused the captors' demands and ordered extensive military operations in order to "determine the whereabouts of the little angels at any cost." During

their captivity, there were complaints of abusive raids by law enforcement, torture, and arbitrary detentions associated with the search for the children.

33. On March 28, 2000, a joint army-police anti-kidnapping commando unit conducted an operation in a slum in the capital city. The authorities were led to that area based on telephone wiretaps that allowed them to identify the location where the kidnapped children were potentially being held. According to the intelligence information there were seven captors, three of whom were identified as MRLB militants: Lucrecia Rossi, Paulo Mukundi, and Ricardo Bolt.

34. The anti-kidnapping unit asked the captors to release the children and peacefully surrender, in exchange for which their lives would be respected. The captors responded to the offer with shots fired from a handgun. The official police report stated that a loud noise (like the sound of a grenade) was heard inside the house. The joint commando unit, on the direct orders of President Ferreira, opened fire with long-range weapons and grenades in order to gain access to the structure. Following a momentary confrontation, members of law enforcement managed to enter the house. Of the seven individuals presumed to be the captors, two bodies were found that were later identified as MRLB militants, none of them Bonecas. Bolt, Rossi, and Mukundi allegedly fled through tunnels that had been built in the house. In one room, they found the bodies of 4 children who had died as the result of an explosion.

35. That same day, the 19 remaining children turned up alive in different areas of the city with flowers in their hands. The death of the four children had a severe impact on Cardenalese society. President Ferreira swore on the children's graves that he would not rest until the perpetrators of these deaths were made to pay. The day of the children's burial, the MRLB issued a statement expressing regret over the events, attributing the children's deaths to the irresponsible actions of the armed forces, and lamenting the deaths of the two comrades who had fallen in combat.

36. After these events, the president gave the order to search for the militants identified as the captors by all possible means. One of them, Ricardo Bolt, belonged to a community of the Boneca People, whose members were subject to harassment, raids, threats, and acts of torture in the following days. The Bonecas reacted to the violence with demonstrations and fires, which resulted in the prosecution of its leaders on terrorism charges, as well as in further repression. The Bonecas denied having had anything to do with the kidnapping, and complained that these acts were acts of racial stigmatization.

37. In June 2000, the body of Lucrecia Rossi, a student at the public university in the capital and alleged MRLB militant, turned up dismembered in a public square in the city with signs of torture and sexual violence. In April 2002, at a press conference, the police presented the recently captured Paulo Mukundi, who had been convicted *in absentia* and sentenced to life in prison for various crimes, including kidnapping, murder, and armed rebellion. Mukundi denounced that he had not been arrested the day of his presentation, but rather had been unlawfully detained and had remained disappeared for several months, during which time he had been tortured. He said that he had been held together with Bolt, who was still missing. The police denied this version of the events, and stated that Bolt was still a fugitive from justice.

IV. Domestic proceedings in the case

38. A military court opened an investigation against Paulo Mukundi, Ricardo Bolt and Derek Guadamuz (the latter as Commander-in-Chief of the MRLB and the alleged mastermind of the acts) for the kidnapping and murder of the children. All were tried and convicted *in absentia* and sentenced to life in prison. In these types of trials, the law did not allow *in absentia* defendants to have a private attorney; rather, they were given a court-appointed lawyer, assigned to the military. It was determined in the proceedings that three other individuals had taken part in the acts, but that they had died by the time the decision was handed down.

39. The Public Ministry opened an investigation into the events of March 28, 2000 against the army and police commanders who led the operation. The military justice authorities challenged the jurisdiction of the Public Ministry, arguing that it had jurisdiction over the case. In the end, the case was turned over to the military courts for investigation and prosecution. Days later, the case was shelved on the grounds that it lacked merit.

40. The relatives of Ricardo Bolt filed a complaint before the office of the public prosecutor alleging his disappearance, based on the statements provided by Mukundi. The Public Ministry opened an investigation that was closed months later for lack of evidence proving the veracity of the statement. The investigation into Mukundi's claims of torture was met with the same fate.

41. For years the guerrillas denied that their members had murdered the children, while the State claimed that it had been an act of cruelty committed by the captors once they saw that they were cornered. In 2008, the Truth Commission decided to select this case as a representative case of the kidnappings carried out during the conflict and of the State's anti-guerrilla strategy. Guadamuz and Mukundi were among the individuals who provided testimony during the session and admitted the group's responsibility for the kidnapping of the children. They also admitted that the children died as a result of a military error on the part of their captors during the takeover.

42. Another participant in the session was retired General João Otavio Pires, who confessed to having had information on the capture of Lucrecia Rossi and accepted personal and institutional responsibility for her torture and murder. He stated that the pressure for results that had come from the Office of the President had caused members of the armed forces to act unlawfully. Although Pires denied having knowledge of Bolt's disappearance or of Mukundi's torture and unlawful detention, he did mention the names of five officers and four noncommissioned officers who had taken part in the strategic planning of the search for the little angels. According to Pires, this group acted as a top advisor to the President. In spite of the fact that no law enforcement officer admitted individual or institutional responsibility for the acts, the Truth Commission found that Mukundi and Bolt had been detained and taken to a clandestine detention site, where they had been tortured. The Commission's report stated that Bolt probably died during the torture and that his body was disappeared, as was the practice of some military units during the armed conflict.

43. The Boneca community that Bolt was from was also recognized as the subject of collective reparations. Various symbolic acts of satisfaction were carried out in consultation

with the community, several of the convictions against area leaders for terrorism-related offenses were overturned, and their immediate release was ordered. These leaders were included in the registry of individual victims and compensated in accordance with the general guidelines of the reparations policy for victims.

44. Guadamuz, Mukundi, and Pires were selected by the high-level commission as the “most responsible” perpetrators of serious crimes, and were criminally prosecuted. On March 1, 2009, a specialized transitional tribunal found that Mukundi had been tried in a manner inconsistent with due process guarantees, and reevaluated his conviction. Because of his contribution to the establishment of the facts and his show of remorse, the Tribunal sentenced him to time served, ordered his release, and sentenced him to an additional penalty of 180 days of community service.

45. Guadamuz was convicted as the mastermind of several “macro-criminal” patterns, but although he was named as a suspect, his participation in the pattern of kidnappings was not investigated in depth. Other members of the MRLB’s Central Command were held accountable as individual perpetrators in the pattern of kidnappings. In April 2009, Guadamuz was convicted of the different offenses committed by him and his guerrilla unit and sentenced to 5 years at an alternative detention facility. Because of his cooperation with the peace and reconciliation process and as a result of the agreements, his sentence allowed him to perform political work to promote the new political party that the MRLB had become subsequent to the agreements.

46. Pires was convicted of various offenses, including the disappearance and torture of guerrillas and opposition leaders during the conflict. He was sentenced in March 2009 and ordered to perform community service and to report weekly to sign an attendance log at court. He is considered to be the one member of the military—among the few to do so—who provided the most information in the Truth Commission’s work to establish the facts. Because his life is at risk, he has spent most of his time in his house, which has been guarded by police since that time.

47. Annika Bolt, Ricardo Bolt’s wife, filed the court appeal established by the transitional laws to review the waiver of prosecution of former President Ferreira and the officers and noncommissioned officers named by General Pires before the Truth Commission as the masterminds of the events. Her case was examined by a specialized transitional tribunal that admitted her request on February 20, 2009. Nevertheless, President Ferreira died of a pulmonary condition during his prosecution. In the same decision, the tribunal denied the request to set aside the waiver of prosecution of the law enforcement officers, finding that they did not qualify under the requirements established for the determination of the “most responsible” perpetrators.

48. The registry of victims included the kidnapped children, the families of the murdered children, as well as the relatives of Lucrecia Rossi, Ricardo Bolt, and Paulo Mukundi as the beneficiaries of reparations. The school was considered by the collective reparations policy to be a symbol of the war’s interference in education and childhood, and a program was started to promote the school as a place of peace, coexistence, and reconciliation. This program is headed by the mother of one of the kidnapped children, and in 2013 it received the Ibero-American Peace Prize.

49. According to the compensation tables set by the Reparations Act, each one of families of the murdered children was awarded compensation in the amount of US \$20,000, as a lump sum payment. The families were also invited to participate in the psychological and social services program, but they refused the offer, stating that so many years after the events had taken place they had already received specialized services that they had paid for with their own funds. They instead requested that they be reimbursed for the money they had invested in these services, but their request was denied by the Ministry of Victims. The kidnapped children and their families were included in the registry and awarded the sum of US \$5,000 per nuclear family as compensation. Most of the families accepted this payment but expressed their dissatisfaction with the amount. Three families decided not to accept this amount and stated that they were reserving the right to go before the courts to obtain the fair reparation to which they were entitled.

50. Emily Rossi and Maximiliano Rossi, the sister and father of Lucrecia Rossi, asked to be included in the registry of victims. Their request was approved, and they were awarded compensation of US \$25,000 each. The compensation was originally assessed at US \$20,000 each, but it was increased because the two beneficiaries decided to avail themselves of the settlement clause provided for under the law. Under the law, a person who receives compensation does not waive his or her right to pursue a claim for money damages in the amount alleged not to have been covered by the administrative compensation. Nevertheless, if the victim so agrees, he or she can waive this right to sue the State and will obtain a higher percentage of administrative reparations. This additional sum is not awarded in cash, but rather in any of the following forms: educational credit for university studies; a subsidy for the purchase of a home; a subsidy to make improvements to rural housing; complementary medical insurance that exceeds the regular affiliation with the health system.

51. As the beneficiary of victim Ricardo Bolt, Annika Bolt received the sum of US \$20,000, which she opted to receive in monthly installments over ten years. She was also included in the programs of rehabilitation, satisfaction, and peace-building as a guarantee of non-repetition. Bolt had filed suit against the State in 2004 to request the judicial review of the administrative decision. In 2007, the Council of State—which is the judicial body responsible for examining lawsuits against the State—ruled against Bolt, failing to find sufficient evidence to prove State responsibility. As of the date on which the judgment was issued, the Truth Commission had not begun its work and the details of the events were not yet known. In 2008, when the Truth Commission's report was released, Bolt filed a motion for the reconsideration of the judgment, which was adjudicated in June 2010. In that decision, she was awarded additional compensation of US \$10,000, on top of what she had received in the administrative proceedings. In setting that amount, the Council of State took account of the information provided by the Truth Commission, the payment of the administrative compensation, and the fiscal position of the State.

52. Paulo Mukundi applied for administrative reparations, but his request was denied. The Ministry of Victims alleged that because he was among the former combatants who had benefitted from reintegration measures similar to the assistance benefits granted to the victims, he was not eligible for additional reparations.

V. Processing before the Inter-American System

53. The Inter-American System received several petitions concerning the events related to the so-called “kidnapping of the little angels.” In December 2002, Annika Bolt filed a petition before the IACHR alleging the responsibility of the State of Cardenal for the disappearance of her husband Ricardo Bolt and the attacks against the Boneca community. The petition was admitted by the IACHR in January 2008 through Report No. 14/98, in view of the alleged violations of Articles 3, 4, 5, 7, 8, 24 and 25 of the American Convention, all in conjunction with Article 1(1) thereof. The petition alleged that the acts had not been properly prosecuted because not all of the officers who took part in the crimes were selected, that the sentences received by the investigated persons were minimal, and that the reparation was inadequate.

54. In May 2009, Lupita López filed a petition alleging impunity in the case of the death of her son Aníbal López, and alleging the lack of reparations for the act. The petition stated that the Accountability, Closure, and Reconciliation Law, applied in the case of her son, resulted in the release without punishment of the only person who had been convicted of the act, and created a mock trial to ensure that the mastermind of the crime would go unpunished. She further alleged that she had not received comprehensive reparations for the act in accordance with the standards established by the IAHRs for similar cases.

55. One month later, Emily and Maximiliano Rossi filed a petition against the State of Cardenal alleging its responsibility for the death of Lucrecia Rossi and the failure to investigate, sanction, punish, and make reparations for the act. The petition alleged that, in spite of the conviction of Guadamuz, neither the direct perpetrators of the act nor its mastermind (former President Ferreira) had been held accountable. It further alleged that the reparations they had received did not meet the standards of the Inter-American System, especially since they granted social policy measures under the responsibility of the State as a form of reparation.

56. The State of Cardenal replied to these petitions in August 2009, objecting to them with arguments addressing both admissibility and the merits. In particular, the State focused on explaining the transitional justice framework and its commitment to meeting international standards, but bearing in mind the magnitude of the State’s tasks. The State indicated that this framework had been recognized as legitimate by Cardenalese society, by the international community that had supported the process, and even by the International Criminal Court. Indeed, since 2004, the Office of the Prosecutor of the ICC had studied the case of Cardenal. In 2008, when the agreements were signed, the Prosecutor was consulted about the possibility of filing cases concerning the country and backing the process. The Prosecutor replied that if the agreements were met, the position of her office would be to not take the cases or apply the clause concerning the interest of justice. The State underscored that the strategy of comprehensive and holistic justice had resulted in the greatest degree of truth, justice, and reparation ever attained in the history of the country, and under difficult circumstances. In addition, in the referendum, the citizens had broadly supported these formulas of transitional justice. It argued that any decision of the Inter-American System should evaluate the transition plan overall and consider the cases in their general context.

57. The IACHR decided to prioritize several cases with respect to the matter. Accordingly, the IACHR adopted Admissibility Report No. 05/12 of February, 2012, jointly

admitting the petitions filed by Lupita López and Emily and Maximiliano Rossi. Once they were admitted, it decided to consolidate these petitions with the case of Ricardo Bolt, which had been at the merits phase since Report 14/98. Both the petitioners and the State reiterated their petitions in their arguments on the merits of the case. In January, 2013, the IACHR issued a joint merits report declaring the responsibility of the Cardenalese State for the violation of the rights enshrined in Articles 3, 4, 5, 7, 8, 24 and 25 of the American Convention, all read in conjunction with Articles 1(1) and 2, with respect to Ricardo Bolt; the rights enshrined in Articles 4, 8, and 25 of the American Convention, all read in conjunction with Articles 1(1) and 2, with respect to Aníbal and Lupita López, and the same articles with respect to Emily and Maximiliano Rossi.

58. The State expressed its complete disagreement with the content of the report, and in February 2013 filed a case before the Inter-American Court of Human Rights. In its complaint, the State asserted that the Commission's decision jeopardized peace and democratic stability, as the news that the system of transition was going to be changed had been understood by both the military sectors and by factions of demobilized guerrilla combatants as a betrayal of the peace process. The Government stated that it had intelligence information about a planned military coup and about actions taken by groups of demobilized combatants to rearm themselves.

59. The parties are thus preparing to present their closing arguments at the final hearing that will be held before the Inter-American Court.