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Pace Law School**

SITUATION IN THE STATE OF VINELAND

**Application for Participation of Victims in Proceedings
And Victims' Memorial**

The Office of the Victim's Counsel

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APPLICATION FOR PARTICIPATION OF VICTIMS IN PROCEEDINGS

Pursuant to Rule 89 of the International Criminal Court's Rules of Procedures and Evidence, the victims of the crimes for which Defendant MPs and Pilots are being prosecuted respectfully request the opportunity to present their views and concerns to this Trial Chamber. ICC-ASP/1/3, Rule 89.

Victims applying to participate in this case are Vineland citizens affected by 1) the detainment of 70 men and boys, 2) the torture of four men, 3) the absolute destruction of thousands of acres of farmland, crops and livestock, 4) the pillaging of civilian homes, 5) the total destruction of three villages, 6) the death of 300 men, women, and children, and 7) the serious injury of 550 additional civilians. The Memorial supporting this application is attached.

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STATEMENT OF FACTS

1. For more than four years, the territory of Vineland was subjected to constant fighting between Vineland's central government and three rebel groups. In September 2001, a peace agreement forming a new coalition government in Vineland was signed by the parties to the conflict. In order to ensure peace in the region, the safety of civilians and refugees, and to prepare for elections, the Security Council authorized UNVINE in January 2002. Member States Katonia and Ridgeland each sent soldiers and paratroopers to the UNVINE mission. Problem, para. 1. Katonia, Ridgeland, and Vineland are parties to the Geneva Conventions. Clarification 8/17/2005.
2. The Security Council began the process of renewing the UNVINE mission in Vineland in June 2002 when the Katonian representative requested immunity for its soldiers from prosecution by the International Criminal Court. Problem, para. 3; Clarification 8/12/2005. In order to ensure the continued efforts to promote peace in Vineland, Katonia agreed to a 15 day extension of the UNVINE mission pending further negotiation in the Security Council regarding this request. Problem, para. 3. The Statute of the ICC entered into force on 1 July 2002 among the State Parties to the Statute, including Vineland. Problem, para. 4. At the time the Statute entered force in Vineland, there was no agreement of immunity for Katonian or Ridgeland soldiers on Vineland territory.
3. On 10 July 2002, UNVINE peacekeeping forces outside Bridgetown, including Katonian and Ridgeland paratroopers, were attacked by an unidentified armed group in Vineland. News reports in neighboring countries reported that the attack did not originate in the Vineland population, but was paid for by "foreign oil companies interested in keeping the UN peacekeepers out of the region." Problem, para. 5.
4. Katonia and Ridgeland sent 200 paratroopers into the northern Vineland region and commenced an attack on the Vineland population in retaliation for the 10 July 2002 attack. The paratroopers launched a ten-day aerial bombing of the area surrounding Bridgetown, which was settled by Vineland farmers and ranchers. Problem, para. 6. The bombings destroyed thousands of acres of farmland and large quantities of crops and livestock that Vineland civilians rely on for food and income. Id.
5. Katonian and Ridgeland paratroopers also surrounded areas outside Bridgetown and conducted house-to-house raids of Vineland homes. Katonian and Ridgeland paratroopers

detained approximately 50 men and 20 boys from the area. The men and boys were taken away from their homes and brought to a detention compound away. Four of the detainees were tortured in an isolated area of the camp. One of these men died of a heart attack following his torture. Problem, para. 6. When the Katonian and Ridgeland paratroopers removed the cordon and left the area, many Vineland families discovered that the paratroopers had stolen personal property. Id.

6. On 20 July 2002 Katonian and Ridgeland paratroopers bombed three villages, killing three hundred (300) civilian men, women, and children, and seriously injuring five hundred and fifty (550) more. Problem, para. 10. The paratroopers had been ordered to bomb ANVA headquarters, not the villages that were destroyed. *Id.*

7. While Katonian and Ridgeland paratroopers were operating in Vineland, the Security Council adopted Resolution 1234 (2002) that requested the ICC to not commence or proceed with investigation or prosecution of any case arising from acts or omissions relating to a UN established or authorized mission, like that of UNVINE. S/RES/1234 (2002); Problem, para. 7. This request was adopted on 12 July 2002 and was made pursuant to Article 16 of the Rome Statute. It was to be effective from 1 July 2002 to 1 July 2003. *Id.*

8. On 1 August 2002, Katonia and Vineland signed an "Article 98 Agreement." Each country made a reciprocal agreement to refrain from surrendering the other's soldiers to the ICC without consent. Agreement Between the Government of Katonia and the Government of Vineland Regarding the Surrender of Persons to the International Criminal Court; Problem, para. 9. Ridgeland made no such agreement with Vineland, though it did make an agreement with Katonia. *Id.*

9. On 20 July 2002, the same day as the bombings that killed 300 Vineland citizens, ANVA insurgents captured three Katonian and two Ridgeland pilots who had encountered engine trouble and landed near the destroyed villages. Problem, para. 10. It is believed that these pilots were part of the bombing missions that killed Vineland civilians. *Id.* Also on 20 July 2002, Vineland women recognized four Ridgeland military police officers ("MPs") as being part of the group that had taken the women's husbands and sons during house-to-house raids earlier in July. Problem, para. 11. The MPs were handed over to ANVA insurgents. *Id.*

10. The MPs and Pilots were held in Vineland by ANVA insurgents from July 2002 to October 2003. Problem, paras. 11-13. Some ANVA members pushed for the immediate execution of

these paratroopers. A non-governmental organization persuaded ANVA to grant the paratroopers a military tribunal, but Katonia and Ridgeland threatened further military attacks if the paratroopers were not released immediately. Problem, para. 12. The Secretary-General of the UN sent his special representative ("SRSG") to ANVA and proposed two alternatives to a military tribunal: try the pilots in a neutral third country or in the ICC. Id. No third country could be found that would both be willing to try the paratroopers and be acceptable to Katonia and Ridgeland, who continued to threaten immediate reprisal if the paratroopers were not released. Id. After fourteen months of negotiations between the SRSG and ANVA, ANVA insurgents agreed to surrender the Katonian and Ridgeland paratroopers (Defendant MPs and Pilots) to the ICC through the Secretary General. Id.

11. Following the surrender of Defendants to the ICC in October 2003, the Prosecutor initiated an investigation *proprio motu* into the crimes of the defendants in accordance with article 15. Clarification 08/25/2005(2), q.1. After concluding that there is a reasonable basis to proceed with the investigation, Prosecutor submitted a request for authorization of an investigation to Pre-Trial Chamber I in accordance with Article 15(3). Pre-Trial Chamber I authorized commencement of the investigation after considering that there was reasonable basis to proceed and that the case appears to fall within the jurisdiction of the court in accordance with Art. 15(4). Clarification 08/25/2005(2), q.4. The victims of Defendants' crimes filed an Application for Participation of Victims in the Proceedings with the Court in accordance with Rule 89 of the Rules of Procedures and Evidence. ICC-ASP/1/3.

PLEADINGS

THE ROME STATUTE ESTABLISHES THE VICTIMS' INTERESTS IN PARTICIPATING IN THE PROSECUTION OF DEFENDANT PARATROOPERS AND BOMBERS.

12. The Rome Statute provides that victims of crimes punishable by the Statute are entitled to express their views before the Court and claim relief for the wrongs suffered, Art. 75, and where their personal interests are affected, victims may submit their observations to the Court. Art. 68(3). The Preamble to the Statute suggests that securing justice for victims is a central tenet of the Statute by recalling that “during this century millions of children, women and men have been victims of unimaginable atrocities that deeply shock the conscience of humanity.”

13. By allowing the victims of Vineland to present their views before the ICC, the Court is sending a message consistent with the principle purpose of the Statute: to end impunity for the perpetrators of the most serious crimes of international concern. Preamble. While the Statute calls for justice for the international community, it also recognizes that the interests of the victims are essential to the enforcement of justice. No party is in a better position to know and articulate the realities of Defendants' crimes than the victims. The victims of Vineland cannot turn the clock back and have everything be as it was before the bombings. Due to the massive deaths, physical injuries, and destruction caused by Defendants, the repercussions of Defendants crimes will remain with the victims for years, if not a lifetime. Therefore, the justice for the victims of Vineland must remain the chief focus of these proceedings. Justice for the victims is justice for the international community as a whole. It is imperative on this Court to respect and recognize the interests of the Vineland citizens affected directly or by the crimes committed by the Defendants.

DEFENDANT PARATROOPERS AND BOMBERS ARE ACCOUNTABLE FOR CRIMES AGAINST HUMANITY AND WAR CRIMES UNDER THE ROME STATUTE.

14. Defendant MPs and Pilots committed numerous crimes against humanity and war crimes in violation of the Rome Statute. The victims of these crimes have an interest in insuring that Defendants are prosecuted for each of these crimes and also request reparations for the actions of the Defendants. As the Prosecution will show, Defendants' actions meet the common elements of crimes against humanity: that they directed widespread or systematic attacks against a civilian

population, and the common elements of war crimes: (1) the victim or victims were protected under one or more of the Geneva Conventions and Defendants were aware of this fact, and (2) the conduct took place in the context of and was associated with an international armed conflict, and Defendants were aware of this fact. Rome Statute, Art. 7- 8; see, e.g, Elements, Arts. 7 (1)(a)(2), 8(2)(a)(i)(2)-(5).

Defendant MPs forcibly and unlawfully transferred civilians

15. Defendant MPs forcibly transferred 50 men and 20 boys to detention camps in Vineland. This action satisfies the elements of deportation and forcible transfer of population and unlawful deportation and transfer. Elements, Arts. 7(1)(d), 8(2)(a)(vii)-1. The elements of forcible transfer under Article 7 and unlawful transfer under Article 8 are similar. Both require that the perpetrator transfer one or more persons to another State or location. Defendants did this when they transferred the 70 Vineland villagers to a detention camp away from their homes. Problem, para. 6. Furthermore, the men and boys detained were insurgents or even sympathetic to the insurgency. The detainees were civilians who were unlawfully taken from their homes and held. *Id.*

16. The Article 7 "crimes against the humanity of deportation or forcible transfer of population" includes a requirement that the transfer must be forcible. Elements, Art. 7(1)(d)(1). Defendant MPs did forcibly take 70 men and boys from their homes and relegated them to a detention camp for an indefinite period. Footnote 12 to the Article states that "the term 'forcibly' is not restricted to physical force, but may include threat of force or coercion, such as that caused by fear of violence, duress, detention, ...or by taking advantage of a coercive environment." The victims did not proceed to the camp willingly, rather they were rounded up during house-to house raids. Problem, para. 6. Defendant MPs conducted exceedingly violent attacks in the area surrounding Bridgetown, and their house-to-house raids meet the requirement of coercion or force under Art. 7(1)(d)(1) of the Elements of Crimes.

Defendant MPs unlawfully confined Vineland civilians and deprived the detainees of their liberty.

17. The Defendant MPs committed further crimes by detaining the 70 men and boys after the victims were unlawfully taken from their homes. Problem, para. 6; Elements, Art. 7(1)(e), 8(2)(a)(vii)-2. Art. 7(1)(e) states that the perpetrator imprisons one or more persons or otherwise severely deprives one or more persons of physical liberty. In determining whether a person was

severely deprived of liberty, the Court must take into account whether the detainee was subject to torture or other cruel, inhuman, or degrading treatment or punishment. M. Boot, in Otto Triffterer (ed.), *Commentary on the Rome Statute of the International Criminal Court: Observers' Notes, Article by Article* (1999), p. 138. Defendant MPs' torture and confinement of the four men severely curtailed the men's liberty and therefore violated Article 7. Problem, para. 6.

18. The detainees' internment at the detention compound also implicates Article 8 against unlawful confinement. In the act of unlawful confinement, "the perpetrator confined or continued to confine one or more persons to a certain location." Elements, 8(2)(a)(vii)-2. By holding the detained persons at the compound, Defendants MPs committed the war crime of unlawful confinement. See Problem, para. 6.

Defendant MPs pillaged civilian property.

19. Defendant MPs committed the war crime of pillage under Article 8. Elements, Art. 8(2)(b)(xvi). Pillaging is defined as the appropriation of certain property with the intent to deprive the owner of the property. *Id.* Defendant MPs stole various items of personal property from homes during the raids. Problem, para. 6. Defendant MPs were not authorized to take the property nor did military necessity require the confiscation of personal items.

Defendant MPs tortured and treated the detainees inhumanly.

20. Defendant MPs tortured four men removed to the Vineland detention camp. Problem, para. 6. As a general principle of international law, *no one* shall be subject to torture, whether civilian or combatant. The Elements of Crimes 7(1)(f) explains that in the act of torture, the perpetrator inflicts severe physical or mental pain upon one or more persons under the control or in the custody of the perpetrator. Art. 8(2)(a)(ii)-1 of the Elements includes the requirement that the physical/mental pain be inflicted for the purposes of obtaining information or a confession. While the details of the instances of torture are sparse, it is clear that Defendant MPs subjected the men to severe physical pain for the purpose of obtaining information. Therefore, Defendants committed the crime of torture, violating both Art. 7(1)(f) and 8(2)(a)(ii).

21. In addition to the crime of torture, the Defendants' acts of inflicting severe pain on the four men also violates the war crime of inhuman treatment. Elements, Art. 8(2)(a)(ii)-2. As with torture, inhuman treatment also encompasses the infliction of "severe physical or mental pain or

suffering upon one of more persons.” Once the elements of torture are proven, the elements of inhuman treatment are necessarily proven. Therefore, Defendant MPs have satisfied the elements of inhuman treatment.

Defendant Pilots committed numerous war crimes and crimes against humanity by killing 300 Vineland civilians and injuring 550.

22. Defendant Pilots did willfully kill and murder 300 civilians in direct contravention of Rome Statute articles 7 and 8. Elements of Crimes Articles 7(1)(a) and 8(2)(a)(i) define the crimes of murder and willful killing as the killing of one or more persons. Defendants failed to properly target ANVA headquarters, the attack exceeded what was warranted by the military objective of the operation and the result was the murder of 300 civilians. Problem, para. 10.

23. Defendant Pilots are also responsible for the war crime of excessive incidental death, injury, or damage. Elements, Art. 8(2)(b)(iv). The poorly planned and executed bombing of 20 July 2002 caused “...death or injury to civilians or damage to civilian objects...that such death, injury or damage would be of such an extent as to be clearly excessive in relation to the concrete and direct overall military advantage anticipated.” Elements, Art. 8(2)(b)(iv), para. (1) and (2).

24. The three decimated villages were neither military objectives, nor defended by military personnel. For their assault of the civilian villages, the Defendants are responsible for the attack of undefended places under Art. 8(2)(b)(v) and the attack of civilians under 8(2)(b)(i). Elements.

25. For those civilians who were spared their lives but suffered severe injury from the bombing, Defendant Pilots are accountable for the willful causing of great suffering. Elements, Art. 8(2)(a)(iii). The Elements of the Crimes explains the act of willfully causing great suffering as causing “great physical or mental pain or suffering to, or serious injury to body of health of, one or more persons.” Elements, 8(2)(a)(iii), para. (1). The serious injuries inflicted on the survivors by Defendant Pilots satisfy the requirements for the willful causing or great suffering.

Defendant Pilots targeted and destroyed civilian property.

26. Defendant Pilots indiscriminately bombed the general area of Bridgeport. The ten-day aerial raid primarily damaged the civilian population and civilian property. Problem, para. 6. This destruction of property was wanton, extensive, and not justified by military necessity. It is therefore a war crime of destruction of property. Elements, Art. 8(2)(a)(iv)(1)-(3). Because this

property was not a military objective, Defendant Pilots also committed the war crime of attacking civilian objects. Elements, Art. 8(2)(b)(ii)(2).

27. Military forces have a duty to distinguish between the civilian population and combatants, as well as between military objects and civilian objects. Protocol I, Art. 48. Stefan Oeter, Methods and Means of Combat, in: Dieter Fleck (ed.), The Handbook of Humanitarian Law in Armed Conflicts (1995), pp. 105, 119. The farmland, crops, and livestock were not military targets. Problem, para. 6. The attack which destroyed this property primarily damaged the civilian population. *Id.* In fact, there is no evidence that the property destroyed had any purpose other than for civilian use. *Id.* As Stefan Oeter explains, "...all methods and means of warfare which primarily damage the civilian population, such as the practice of indiscriminate area bombing...are prohibited." Oeter at 119. Defendant Pilots therefore violated Articles 8(2)(a)(iv) and 8(2)(b)(ii).

Defendants' actions were in retaliation against civilians and are prohibited under the Geneva Conventions.

28. The excessive ten-day bombing measures commenced 10 July 2002 were in retaliation for an attack on UNVINE peacekeeping forces by unidentified armed groups in Vineland. Problem, para. 6. Though some actions against the unidentified armed groups would be permissible, reprisals against civilians are unlawful and prohibited under the Geneva Conventions. Protocol I, Art. 51(6); See also, Geneva Convention Relative to the Treatment of Prisoners of War, Aug. 12, 1949, 75 U.N.T.S. 135, Art. 33.

29. Defendant Pilots staged the bombings in the "general area of the attacks." Prob. para. 6. They created an inexact and ill-defined attack zone whereby damage to civilians and civilian property would not only be inevitable but also be out of proportion to any military advantage gained. Defendant Pilots disregarded the "elementary considerations of humanity" and conducted a reprisal bombing against a heavily populated civilian area. See Prosecutor v. Kupreskic, Judgment, ICTY 1, January 14, 2000, para. 525.

30. On 20 July, Defendant Pilots, again exercised a policy of indiscriminate targeting and initiated in an aerial attack which resulted in 300 civilian casualties. Customary international law and the law of war consistently hold that military attacks must be directed at a specific military target. Indiscriminate methods of warfare which cause substantial damage to civilians are

unlawful. Kupreskic at para. 524; Protocol I, Arts. 57, 58. By bombing civilian areas, Defendant MPs and Pilots have shown a blatant disregard for the fundamental principles of human rights and have no defense for their actions.

31. The crimes committed by the Defendants are punishable under Art. 77 of the Statute. However, holding Defendants liable for their crimes is but one aspect of justice. Defendants are also called upon to make compensate the victims for the wrongs suffered, and, under the Rome Statute, the victims may request reparations under Art. 75.

THE COURT SHOULD ADOPT THE NORMS OF CRIMINAL JUSTICE FORMULATED BY THE INTERNATIONAL COMMUNITY TO DETERMINE THE PRINCIPLES OF REPARTIONS FOR VINELAND VICTIMS.

32. The Rome Statute provides that the Court “shall establish principles relating to reparations to, or in respect of, victims, including restitution, compensation, and rehabilitation.” Art. 75(1). Since the Court has not yet established a set of guidelines relating to reparations for victims, we respectfully suggest that the Court examine and adopt the norms formulated by the international community in the area of criminal justice.

33. Primary among the international human rights instruments, The United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (General Assembly resolution 40/34 of 29 November 1985) (hereinafter Declaration) includes extensive assurances for those who suffer financial, physical or mental harm or impairment of their fundamental rights through acts which violate human rights. The Declaration provides, in pertinent part, that:

(8) Offenders or third parties should make fair restitution to victims, their families or dependents. Such restitution should include the return of property or payment for the harm or loss suffered, reimbursement of expenses incurred as a result of the victimization, the provision of services and the restoration or rights;

...

(14) Victims should receive the necessary material, medical, psychological and social assistance and support.

The affected citizens of Vineland are victims under the Rome Statute.

34. Victim means “natural persons who have suffered harm as a result of the commission of any crime within the jurisdiction of the Court.” *Rules of Procedure and Evidence*, Rule 85. This

definition is consistent with international humanitarian law in that it is broad enough to include those who have indirectly suffered harm. For instance, as defined in the Declaration, victims are persons who, “individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights...The term ‘victim’ also includes, where appropriate, the immediate family and or dependants of the direct victim...” Declaration, paras. 1, 2.

35. The present case involves five groups of affected persons: (1) the 70 men and boys held at the detention compound; (2) the four men tortured by Defendants while detained at the compound; (3) citizens who either had their property stolen by Defendants or had their farmland and livestock destroyed during the 10 July bombing campaigns and civilians whose homes and personal property were destroyed during the 20 July bombing; (4) the 300 civilians killed during the 20 July bombing attack and the numerous family members affected by their deaths; and finally, (5) the 550 additional civilians seriously injured during the 20 July bombing attack. Problem, paras. 6, 10. Each of these classes meets the definition of victim in that they have suffered physical harm in the form of torture, loss of life, and serious bodily injury at the hands of Defendants; economic harm through the wrongful confiscation of personal property and complete destruction of personal property by Defendants; the impairment of fundamental rights through the loss of liberty while being forcibly detained at the compound by Defendants; and the emotional suffering that comes with having family members killed during the bombing attacks conducted by Defendants. Individually and collectively, the affected civilians of Vineland have suffered harm at the hands of Defendants. Therefore, these civilians are victims in the individual sense *and* members of a victimized community.

IN ASSESSING THE VICTIMS’ LOSS, THE COURT SHOULD EXAMINE THE FINANCIAL, PHYSICAL, AND PSYCHOLOGICAL IMPACT THAT DEFENDANTS’ CRIMES IMPOSED ON THE VICTIMS.

36. Art. 75(1) of the Statute allows the Court to “establish principles relating to reparations to, or in respect of, victims, including restitution, compensation and rehabilitation.” The purpose of restitution is to restore the victim to his/her original state. In that sense, financial losses suffered by the victim are more easily calculated than physical or emotion harm because the exact thing taken can either be replaced or compensated by monetary damages. In determining reparations,

the Court should examine the financial impact that Defendants' crimes had on each group of Vineland victims:

Victims may incur costs in the following ways: repairing property or replacing possessions...accessing health services, participating in the criminal judicial process, for example, attending the trial, obtaining professional counseling to come to terms with the emotional impact, taking time off work or from other income-generating activities, [and] funeral or burial expenses.

See The Handbook on Justice for Victims: On the Use and Application of the United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (UN Doc. E/CN. 15/1998/11, CRP 4, Add. 1). Therefore, a determination of financial impact will take into account the *actual* losses of the victim.

37. The physical repercussions of victimization can be more difficult to calculate and compensate than financial losses. Costs and expenses of medical bills and lost wages can be compensated, but monetary reparations often cannot return a victim to his previous state. Indeed, "life cannot be recovered, nor can a rape or torture victim have the rape or torture expunged. In such cases, money becomes a substitute for the pre-injury status." See Dinah Shelton, *The International Criminal Court Reparations to the Victims of Crimes (Article 75 of the Rome Statute) and the Trust Fund (Article 79): Recommendations for the Court Rules of Procedure and Evidence*, New York University of International Cooperation, 26 July – 13 August 1999 Meeting of the Preparatory Commission for the International Criminal Court (hereinafter Shelton).

38. The psychological impact of victimization is often the most difficult aspect to compensate because the losses are not as readily ascertainable as financial, or even physical, harm. However, intangible injuries like mental anguish and suffering are widely recognized as compensable harms and national and international tribunals routinely award damages to victims for these and other non-pecuniary losses. See generally Shelton; *Loayza Tamayo v. Peru*, Judgment of September 17, 1997, Inter-Am. Ct. H.R. (Ser. C) No. 33 (1997).

The Vineland victims suffered financial damage due to the crimes committed by Defendant paratroopers and bombers.

39. The primary financial damages to the Victims take the form of lost wages and damaged or destroyed personal property. While detained by Defendant paratroopers, the men and boys were not able to work, and therefore lost several days' salary and wages. Their families are injured

parties as well because they were deprived of the income that the detainees most likely used to support the household. As a part of the group of detainees, the tortured victims are also due compensation on the basis of lost salary and wages, as are the families who depended on their income.

40. The tortured and injured individuals are also likely to incur medical expenses as a result of their physical injuries. Medical expenses are measurable as *actual* financial losses because the exact thing (money paid for medical treatment) can be restored to the victims in the form of restitution.

41. The many families whose homes were pillaged by Defendant paratroopers have experienced a financial loss. Personal items were taken from the victims' homes, and in the event that the stolen items cannot be recovered from Defendants, restitution can be made for the cost or fair market value of the items.

42. Additionally, the families and individuals whose farmland, crops, and livestock were destroyed during Defendants' bombing attacks are financially impacted for the affected victims likely have lost the tools of their livelihood. Crops and livestock which previously produced earnings for its owners are no longer available as a means of income.

43. The families of the 300 civilians killed during the 20 July bombing are faced with funeral and burial expenses for their loved ones who were killed during the attack. Additionally, in some families, the deceased may have been the primary source of income for the household. In the absence of the main wage-earner, many the Vineland families are confronted with a substantial, or in some cases total, loss of income. Therefore, we request that the Defendants provide compensation in the form of funeral/burial expenses. Furthermore, we request that the Court calculate and award each affected family the future wages of their deceased family members.

44. The seriously injured civilians and their families are also faced with a substantial financial burden. For the 550 wounded civilians, financial hardship takes the form of costs for medical treatment for the injuries suffered in the 20 July bombings and the wages lost while recuperating from those injuries. In some instances, the injuries may be permanent and preclude the injured victims from ever returning to work. In these cases, we request that the Court use the same methodology to calculate compensation for permanently injured victims as for fatally injured victims.

The Vineland victims suffered severe physical injury due to the crimes committed by Defendant paratroopers and bombers.

45. The Court should also consider the physical injuries suffered by the men subjected to torture and the victims injured in the 20 July bombings. While the medical expenses for these victims are covered as actual financial costs, the pain and suffering as a result of being tortured or physically injured is also compensable. See Declaration, 12(a). In determining reparations, the Court should take into account the extent of the victims' physical injuries and the pain and suffering that the victims endured at the hands of Defendants.

The Vineland victims suffered psychological harm due to the crimes committed by Defendant paratroopers and bombers.

46. Intangible injuries like mental anguish and suffering are widely recognized in the internal community as elements of recovery. The Vineland victims were exposed to a number of traumas which often result in some kind of psychological damage. The distress caused by torture, forcible confinement, severe injury, and the brutal death of a family member have all been found compensable as non-pecuniary damages. See generally *In re Estate of Marcos*, 103 F.3d 767 and *Nicholas Blake v. Guatemala*, Judgment of January 24, 1998, Inter-Am. Ct. H.R. (Ser. C) No. 36 (1998). The Vineland victims who suffered through these harrowing experiences will likely require professional therapy to cope with the emotional impact of the crimes. The Court should take into account the costs of supporting and maintaining the emotional and psychological well-being of these victims in the aftermath of their trauma.

CONCLUSION

47. We respectfully request that the Court grant the Victims the following reparations:

- A. Restitution in the amount of the fair market of the personal property for the items pillaged by Defendants from the victim's homes.
- B. Restitution in the amount of the fair market value of the farmland, crops, and livestock destroyed by Defendants during the 10 July 2002 bombing attacks.
- C. Reparations for the financial losses, physical injury, pain and suffering, and mental anguish suffered by the four men who were subjected to torture.
- D. Reparations for the financial losses and mental anguish experienced by the 70 detainees.

- E. Reparations for the financial losses, physical injury, pain and suffering, and mental anguish suffered by the 550 victims seriously injured during the 20 July 2002 bombing attack.
- F. Reparations for the financial losses and mental anguish suffered by the families of the 300 civilians killed during the 20 July 2002 bombing attack

Certification of Team Members

We hereby certify that the memorial for ----, is the product solely of the under signed and that the undersigned have not received any faculty or other assistance, other than that allowed for in the Rules, in connection with the preparation of this memorial.

/s/ team