

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
MIAMI DIVISION**

ELOY ROJAS MAMANI, ETELVINA )  
RAMOS MAMANI, SONIA ESPEJO )  
VILLALOBOS, HERNÁN APAZA CUTIPA, )  
TEÓFILO BALTAZAR CERRO, JUANA )  
VALENCIA DE CARVAJAL, )  
HERMÓGENES BERNABÉ CALLIZAYA, )  
GONZALO MAMANI AGUILAR, AND )  
FELICIDAD ROSA HUANCA QUISPE )

Plaintiffs, )

v. )

GONZALO DANIEL SÁNCHEZ DE )  
LOZADA SÁNCHEZ BUSTAMANTE, )

Defendant. )

**Case No. 08-21063-CV-COHN**

**SECOND AMENDED CONSOLIDATED  
COMPLAINT FOR EXTRAJUDICIAL  
KILLING; CRIMES AGAINST HUMANITY;  
AND WRONGFUL DEATH**

**JURY TRIAL DEMANDED**

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ELOY ROJAS MAMANI, ETELVINA )  
RAMOS MAMANI, SONIA ESPEJO )  
VILLALOBOS, HERNÁN APAZA CUTIPA, )  
TEÓFILO BALTAZAR CERRO, JUANA )  
VALENCIA DE CARVAJAL, )  
HERMÓGENES BERNABÉ CALLIZAYA, )  
GONZALO MAMANI AGUILAR, AND )  
FELICIDAD ROSA HUANCA QUISPE )

Plaintiffs, )

v. )

JOSÉ CARLOS SÁNCHEZ BERZAÍN, )

Defendant. )

**Case No. 07-22459-CV-COHN**

## **PRELIMINARY STATEMENT**

1. This is a civil action for compensatory and punitive damages against Gonzalo Daniel Sánchez de Lozada Sánchez Bustamante (“Defendant Sánchez de Lozada” or “Sánchez de Lozada”), the ex-President of Bolivia, and José Carlos Sánchez Berzaín (“Defendant Sánchez Berzaín” or “Sánchez Berzaín”), the ex-Minister of Defense of Bolivia (collectively “Defendants”), for extrajudicial killings, crimes against humanity, and wrongful death against Bolivian citizens in September and October 2003.

2. The Defendants took office in August 2002 intending to impose controversial economic programs. They knew that those programs, particularly a plan to export gas through Chile, would trigger political protests. They also knew that, in the past, political protests had successfully pressured past governments to change unpopular policies.

3. Even before they took office, Defendants decided that they would use unlawful, lethal military force against Bolivian civilians to ensure that the anticipated protests would not derail their unpopular plans. To that end, they planned to send the military to shoot to kill and injure people without regard to whether they were engaged in any conduct that would justify the lawful use of lethal force. The Defendants’ plan was intended to terrorize and intimidate the civilian population so that civilians would be afraid to protest against the Defendants’ economic programs.

4. On more than one occasion, Defendants candidly discussed with each other and with advisors how many civilian deaths would be necessary to effectively block active opposition to their plans. Defendants made a conscious decision that thousands of unlawful killings would be both necessary and acceptable to deter protests. For example, in a meeting

before the 2002 elections, Defendants agreed that they would have to kill 2,000 or 3,000 people in order to ensure that popular opposition would not block their proposals.

5. As part of the implementation of their plan, once in office Defendants issued secret decrees that authorized the Bolivian Armed Forces to respond to protests in civilian communities with lethal military tactics, rather than law enforcement procedures. The unlawful decrees authorized the Armed Forces to treat unarmed Bolivian civilians as if they were armed, enemy combatants who could be shot and killed on sight.

6. When political protests began in September and October 2003, Defendants embarked upon their plan to shoot to kill and injure people who were not engaged in any conduct that would justify the lawful use of lethal force. They personally ordered the Armed Forces to enter Bolivian towns and villages as if they were attacking a foreign invader. The Armed Forces employed tactics of war, including deploying military sharpshooters armed with high-powered rifles who shot into houses and chased and shot unarmed villagers as they fled through fields and into the mountains. In those two months, the military killed 58 people, including men, women, and children, and injured over 400. Many of the individuals killed and injured as a result of the plan were not involved in protests, or even near protests, when they were shot. The unlawful killings and attacks on civilians ended only when domestic and international pressure forced Defendants to resign and flee Bolivia.

7. The deaths and injuries were an intended result of Defendants' plan to use systematic unlawful killings to quash and deter opposition to their economic programs.

8. This amended complaint is filed on behalf of the families of eight of the people killed by Bolivian soldiers acting under the orders, and according to the plans, of the Defendants. Their deaths were a result of Defendants' plan to terrorize civilians. None of the Decedents

posed any threat to security forces, to other people, or to property when they were killed. Their intentional and unjustified deaths constituted extrajudicial killings, murders, and wrongful deaths and were part of a widespread and systematic attack on a civilian population and, therefore, also constituted crimes against humanity.

### **JURISDICTION AND VENUE**

9. This Court has jurisdiction over this action based on 28 U.S.C. § 1350, 28 U.S.C. § 1331, and 28 U.S.C. § 1332.

10. This Court has supplemental jurisdiction over Plaintiffs' state law claims based on 28 U.S.C. § 1367.

11. This Court has personal jurisdiction over Defendant Sánchez de Lozada based on his contacts with the State of Florida. This Court has personal jurisdiction over Defendant Sánchez Berzaín based on his residence in this District and personal service here. Neither Defendant has challenged personal jurisdiction in this case.

12. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b)(3).

### **PARTIES**

13. On information and belief, Defendant Sánchez de Lozada is a dual U.S. and Bolivian citizen who has been a resident of the United States since he fled Bolivia in October 2003 and who is currently residing in Maryland. From August 1993 to August 1997 and again from August 2002 to October 2003, Sánchez de Lozada served as President of the Republic of Bolivia.

14. Defendant Sánchez de Lozada was raised in the United States, was educated here, owns businesses in the United States, and has brought his family to reside in the United States.

15. On information and belief, Defendant Sánchez Berzaín is a Bolivian citizen who has resided in the United States since he fled Bolivia in October 2003 and he currently resides in Florida. Sánchez was granted political asylum in the United States on May 1, 2007. By information and belief, family members also reside in the United States.

16. On June 19, 2008, the Bolivian government waived any immunity to which either of the Defendants might have been entitled. On October 16, 2008, the U.S. Department of State accepted that waiver of immunity.

17. At all relevant times in September and October 2003, Defendant Sánchez de Lozada, as President and Captain General of the Armed Forces, and Defendant Sánchez Berzaín, as Minister of Defense of the Republic of Bolivia, possessed and exercised effective command and operational control over the Armed Forces of the country, which included the Army, Navy, and Air Force.

18. Plaintiffs Eloy Rojas Mamani and Etelvina Ramos Mamani, husband and wife, are natives and citizens of Bolivia who reside in Warisata, Bolivia. They bring this action in their individual capacities and on behalf of their eight-year-old daughter, Marlene Nancy Rojas Ramos, who was killed on September 20, 2003 in the family home in Warisata by the Bolivian Armed Forces.

19. Plaintiff Sonia Espejo Villalobos is a native and citizen of Bolivia, who resides in El Alto, Bolivia. She brings this action in her individual capacity and on behalf of her husband, Lucio Santos Gandarillas Ayala, who was killed on October 12, 2003 in the Senkata zone of El Alto by the Bolivian Armed Forces.

20. Plaintiff Hernán Apaza Cutipa is a native and citizen of Bolivia, who resides in El Alto, Bolivia. He brings this action in his individual capacity and on behalf of his sister, Roxana

Apaza Cutipa, who was killed on October 12, 2003 in her home in the Los Andes zone of El Alto by the Bolivian Armed Forces. She was not survived by any children, husband, or parents.

21. Plaintiff Teófilo Baltazar Cerro is a native and citizen of Bolivia, who resides in El Alto, Bolivia. He brings this action in his individual capacity and on behalf of his wife, Teodosia Morales Mamani, who was killed on October 12, 2003 in the Rio Seco zone of El Alto by the Bolivian Armed Forces. At the time of the shooting, decedent was five months pregnant.

22. Plaintiff Juana Valencia de Carvajal is a native and citizen of Bolivia, who resides in El Alto, Bolivia. She brings this action in her individual capacity and on behalf of her husband, Marcelino Carvajal Lucero, who was killed on October 12, 2003 in the Tunari zone of El Alto by the Bolivian Armed Forces.

23. Plaintiff Hermógenes Bernabé Callizaya is a native and citizen of Bolivia, who resides in Apaña, Bolivia. He brings this action in his individual capacity and on behalf of his father, Jacinto Bernabé Roque, who was killed on October 13, 2003 in the Ánimas area near Apaña by the Bolivian Armed Forces.

24. Plaintiff Gonzalo Mamani Aguilar is a native and citizen of Bolivia, who resides in Apaña, Bolivia. He brings this action in his individual capacity and on behalf of his father, Arturo Mamani Mamani, who was killed on October 13, 2003 in the Ánimas area near Apaña by the Bolivian Armed Forces.

25. Plaintiff Felicidad Rosa Huanca Quispe is a native and citizen of Bolivia, who resides in Ovejuyo, Bolivia. She brings this action in her individual capacity and on behalf of her father, Raúl Ramón Huanca Márquez, who was killed on October 13, 2003 in Ovejuyo by the Bolivian Armed Forces.

## STATEMENT OF FACTS

26. Defendants took office in August 2002 intending to impose controversial economic programs that they knew would be widely unpopular. *See* ¶¶ 27-34. Before they even took office, Defendants decided that they would use unlawful, lethal military force against Bolivian civilians to suppress opposition to their programs. *See* ¶ 30. After taking office, Defendants, as part of their plan, intentionally transported military forces from across the country to areas around La Paz because they thought these forces would be more willing to kill civilians, and discussed how many deaths would be necessary to deter opposition to their programs. *See* ¶¶ 30-31, 97, 108. The killings in September and October 2003 from which this case arises were part of the execution of Defendants' plan. *See* ¶¶ 60-145. The violence ended only when, faced with nationwide protests triggered by the mounting toll of deaths and injuries, Defendants resigned and fled from Bolivia to avoid prosecution. *See* ¶ 164. Defendants have since refused to return to Bolivia to defend their actions in a court of law.

### **Defendants' Decision to Use Unlawful, Deadly Force Against Civilians**

27. Defendants knew from Bolivian history and from the recent past that popular opposition frequently impeded implementation of unpopular political and economic programs. Prior administrations had often faced political protests, including marches, demonstrations, hunger strikes, and blocked roads. In response to such protests, past administrations often agreed to change unpopular policies.

28. In the past, Defendants had chosen to use violence against protesters. For example, in December 1996, during Sánchez de Lozada's first term as president, in response to a mine occupation and protest in the towns of Amayapampa and Capasirca, his government rejected suggestions that they negotiate with the protesters. Instead, they sent troops to confront

the protesters, resulting in 9 deaths and 32 injuries. The government eventually paid compensation to the families of the dead and to the injured.

29. Between December 1999 and April 2000, in a series of events now known as “the Water War,” the prior Bolivian administration faced widespread protests against a decision to privatize the water supply in the city of Cochabamba. The government initially refused to negotiate and instead used force against protesters, leading to several deaths and hundreds of injuries. The violence triggered escalating protests, and the government changed its position and cancelled the private water contract.

30. Even before taking office for his second term in 2002, Defendant Sánchez de Lozada discussed with Defendant Sánchez Berzaín a plan to systematically use unlawful, lethal force against civilians, in order to quash and deter political protests. In 2001, in the presence of at least two other members of their political party, Sánchez Berzaín said to Sánchez de Lozada that, when they took power after the 2002 elections, they would avoid the situation faced by the prior government during the Water War. Instead, he said, they would use overwhelming force to avoid the need to modify unpopular economic programs in the face of protests. Sánchez Berzaín said that the plan would work by avoiding reliance on conscripts; in their administration, he said, protests would be met with highly trained military troops from Beni in the east of Bolivia, who would be willing and able to kill large numbers of civilians. Sánchez Berzaín stated that they would have to kill 2,000 or 3,000 people in order to overcome opposition to their plans. Sánchez de Lozada explicitly agreed with Sánchez Berzaín.

31. After they took office, Defendants and their political and military colleagues debated whether hundreds of deaths would be sufficient, or whether it would be necessary to kill between 2,000 and 4,000 people. Defendants had multiple conversations about the need to kill



large numbers of Bolivian civilians in order to deter and quash opposition to their plans. Close associates of the Defendants confirmed that, as of early 2003, Defendants remained committed to using lethal military force to repress the opposition and were prepared to kill 3,000 people or as many as were necessary.

32. In the June 2002 presidential election, Sánchez de Lozada received 22 percent of the vote. The Bolivian Congress selected him as president on August 4, 2002, after he entered a coalition with two other parties. He appointed Sánchez Berzaín as Minister of the Presidency. Sánchez Berzaín subsequently became the Minister of Defense in August 2003.

33. A major prong of Sánchez de Lozada's policies during his 2002-2003 term was pursuit of a plan to export natural gas to the United States and Mexico through Chile. During his first term as president, Sánchez de Lozada had explored the possibility of this export plan. The succeeding Bolivian government set in motion, but did not complete, an agreement with foreign corporations to export liquefied natural gas from Bolivia to California. Even before taking office in 2002, Sánchez de Lozada began work to implement the gas export plan, meeting with executives of the foreign corporations, who commissioned a study of the potential routes to transport the gas to the United States.

34. Defendants anticipated widespread public protests against their economic programs, particularly the gas export plan.

**Laying the Groundwork for the Widespread and Systematic Attacks  
and Use of Unlawful Force Against Civilians**

35. Immediately after assuming office in August 2002, Defendants took steps to implement their plan to use unlawful killings and terror as a means to suppress dissent. First, they ordered secret, unconstitutional changes to Bolivian law to authorize the use of military force against peaceful, unarmed civilian protesters. *See ¶¶ 36-41.* As part of those changes,

Defendants categorized even peaceful political protestors as “subversive” and authorized the military to use lethal force against such peaceful protestors instead of law enforcement tactics. *See* ¶¶ 37-38, 83-85, 127, 148. Second, between January and October 2003, Defendants used unlawful, lethal military force against political protests, leading to dozens of civilian deaths. *See* ¶¶ 42-59. Defendants anticipated and intended civilian deaths and injuries and rejected repeated pleas to use peaceful means to resolve the growing social and political tensions. *See* ¶¶ 42, 45, 48-50, 56-57, 81, 88, 90, 96, 102, 105, 125, 149.

**A. The Legal Framework for the Use of Unlawful Military Force**

36. Defendants had the authority to issue orders to the Armed Forces because the President and Minister of Defense are the highest commanders of the Bolivian military. The Constitution states that the President is the Captain General of the Armed Forces and that the Armed Forces are “subordinate” to the President of the Republic. The Armed Forces receive their orders from the President through the Minister of Defense and the Army Commander in Chief. The law regulating the Bolivian Armed Forces, known as the Organic Law of the Armed Forces, states that the President is the highest military authority and that both the President and the Minister of Defense are members of the Military High Command, the highest decision-making body of the Armed Forces.

37. In August 2002, the new Army Commander appointed by Sánchez de Lozada issued a secret Manual for the Use of Force that defined even peaceful civilian political protest, including marches and demonstrations, as “subversion.” The Manual also authorized the use of the Armed Forces, rather than the police, against such protests. The Manual called for application of doctrines of armed conflict to domestic political protests.

38. In January 2003, Sánchez de Lozada promulgated a secret plan, the Republic Plan, which authorized the use of lethal military force in response to political protests, including to control “civil disturbances” and to unblock roads. The Republic Plan classified all political protest as the equivalent of violent insurrection or rebellion, labeled those engaged in political protests as the “enemy,” and authorized full-scale combat operations, including the use of special forces, to conquer that civilian “enemy.” The plan authorized the Armed Forces to respond to Bolivian civilians as if they were armed, enemy combatants, thereby authorizing the military to shoot and kill unarmed civilians on sight, independent of any legitimate law enforcement needs.

39. Defendants’ militarization of domestic law enforcement violated the division of military and police functions mandated by the Bolivian Constitution, which formally separates the functions of the police and military and limits the use of the military within Bolivian territory.

40. The Bolivian military dictionary defines “subversion” as the acts of an organized group engaged in a “clandestine insurrection.” By labeling even peaceful, public protests as “subversion,” Defendants sought to justify the unlawful use of lethal military force against unarmed civilians during political protests.

41. At the time that Defendants promulgated this plan, and throughout 2002 and 2003, Defendants knew that there was no armed guerrilla group operating in Bolivia and no enemy that would have justified deployment of the Armed Forces using military tactics under Bolivian or international law.

#### **B. Initial Implementation of the Unlawful Plan: January-September 2003**

42. Sánchez de Lozada and Sánchez Berzaín used lethal military tactics against protestors in January 2003, when farmers in Chapare, near Cochabamba, began a protest. In the

presence of Waldo Albarracín, a mediator from the Permanent Assembly for Human Rights, Sánchez de Lozada agreed to negotiate a resolution of the conflict, but then, after consulting with Defendant Sánchez Berzaín, announced that they would not negotiate. Instead, on January 14, military forces attacked civilians using lethal force. Soldiers killed at least eight civilians and wounded others. No members of the Armed Forces or political leaders were prosecuted for these civilian deaths.

43. Defendants used unjustified lethal military force against civilians again in February 2003. On February 9, Sánchez de Lozada announced an unpopular decision to impose an income tax, which would have fallen most heavily on the middle class.

44. On February 12, a large demonstration in La Paz, composed mainly of students, protested the proposed income tax. Police joined the demonstration, demanding an increase in pay. Military sharpshooters fired on a police delegation accompanied by negotiators as the group left to attend a designated meeting with the government. The confrontation between the military and the police ended when the police reached an agreement with the government in the early hours of February 13, but the other demonstrations continued.

45. Also on February 12, the government Ombudsman (“Defensor del Pueblo”), Ana Maria Romero de Campero, called Vice-President Carlos Mesa, to ask him to urge the government to resolve the disputes peacefully. Mesa told her that he could not do anything because Sánchez de Lozada and Sánchez Berzaín were not willing to consider alternatives to the use of lethal force.

46. On February 13, after the police protest had ended, the military targeted and shot civilian protesters and bystanders who were not involved with the protest. Military sharpshooters shot and killed both a bricklayer working on a roof in the center of La Paz and the

nurse who went to assist him. A doctor wearing a Red Cross vest who tried to attend them was shot and seriously wounded. On the same day, soldiers brought in by helicopter opened fire on a demonstration in El Alto and killed four individuals. Over the course of February 12 and 13, 32 people were killed and 214 were injured.

47. As a result of public outrage over the killings and military violence, Defendant Sánchez Berzaín and several other cabinet ministers were forced to resign from the cabinet.

48. In the months following the February killings, people both in and outside of government warned Sánchez de Lozada that his use of military force against political protests was unlawful and dangerous and would lead to many deaths. For example, Ricardo Calla, a Bolivian anthropologist, personally told Sánchez de Lozada that his government was on the brink of human catastrophe, that Sánchez de Lozada was about to “taint his hands with blood,” and that the “trigger happy” members of his cabinet and advisors, including Defendant Sánchez Berzaín, would lead to a massacre if Sánchez de Lozada continued to give them power. Calla implored Sánchez de Lozada to adopt a non-lethal approach to the protests to avoid additional deaths. Others, including cabinet members, similarly told Sánchez de Lozada that there were alternatives to lethal force, cautioned against the use of force in response to protests, and warned that the use of force would lead to many deaths.

49. In the weeks following the February 2003 crisis, advisors to Defendant Sánchez de Lozada warned him that his government was on the verge of collapse.

50. In response, Defendants chose to continue to implement their strategy to use lethal military force to kill and terrorize civilians. Between February and October 2003, government officials, including Defendants, again discussed how many deaths would be necessary to suppress popular movements: some adopted the view that between one hundred and

two hundred deaths would be sufficient, while others stated that between 2,000 and 4,000 deaths would be necessary. Sánchez Berzaín stated that 999 deaths were not enough, but that 1,000 deaths would be sufficient.

51. By the time the massacres began in September 2003, the Defendants had reaffirmed their commitment to their unlawful plan to wield lethal military force against civilians, a plan that they knew and intended would include the unlawful killing of Bolivian citizens who posed no danger to persons or property.

52. To justify the use of military force, Defendants repeatedly and falsely stated that the government was facing an organized armed rebellion supported by foreign organizations. In April 2003, for example, Sánchez de Lozada stated that he was willing to defend the government with arms, although there was no evidence that armed groups threatened the government. Later, both Defendants repeatedly claimed that armed groups were threatening the government, although their intelligence officers had no evidence of any such threats.

53. Starting in May 2003, popular opposition to the plan to export Bolivian natural gas led to increased protests and demonstrations, triggered in part by an announcement that the gas would be exported through a port in Chile.

- a. A broad coalition, including military generals, anti-globalization activists, neighborhood organizations, octogenarian pensioners, veterans of the 1930s war with Paraguay, union representatives, and farm workers, created a National Coordinator for the Recovery and Defense of Gas (“Coordinadora Nacional por la Recuperación y Defensa del Gas”) to oppose the plan to export gas.
- b. The Supreme Council of National Defense, a government group composed of top military and civilian leaders, advised against the Chile route.

54. On August 5, the Sánchez de Lozada government brought another political party into the governing coalition, giving the coalition a two-thirds majority in Congress. With the additional votes, Congress elected an ally of Defendants as the new Ombudsman, replacing Ana Maria Romero de Campero, the popular Ombudsman who had used her office to protect human rights.

55. Also in early August, Sánchez de Lozada brought Sánchez Berzaín back into the cabinet as Minister of Defense, with direct control over the military.

56. On September 6, organizations of small farmers began three separate peaceful marches to La Paz, with a series of economic demands. On September 7, they arrived in El Alto, and on September 8, unions, students, and other protesters joined the marches, each group asserting its own demands. The protesters unsuccessfully sought to meet with cabinet members. On September 9, many of the protesters began a hunger strike. The government refused to negotiate, although Vice-Minister Elias Harb later stated that, in the early weeks of September, negotiations would have been productive, because some of the demands could have been resolved.

57. On September 9, Defendant Sánchez Berzaín set up a “war room” to direct responses to the growing protests.

58. On September 11, the Commander in Chief of the Armed Forces ordered implementation of the Republic Plan and declared a “Red Alert” across the entire country. A “Red Alert” is the practical equivalent of a state of war in which the Armed Forces are engaged in armed conflict against “enemy combatants” and are authorized to shoot and kill the “enemy.” As a result, fully armed military units began to patrol throughout the country, authorized to shoot and kill Bolivian civilians. At that time, and throughout September and October 2003, law and

order could have been maintained using civilian law enforcement methods, in which the police had extensive training and experience.

59. On September 13, in Mexico, Sánchez de Lozada met with the head of Sempra, a U.S. energy corporation, and announced that the contract for selling natural gas to Mexico and the United States would be finalized shortly.

### **Execution of the Unlawful Plan in September and October 2003**

60. From September 20, 2003, and continuing until their resignations on October 17, 2003, Defendants implemented their plan to use unlawful, lethal military force against civilians who posed no danger that would justify the use of such force, as a means to quash and deter political protests. They personally supervised military operations by troops under their command who shot and killed or injured hundreds of civilians. *See* ¶¶ 61-145. The Defendants stated that they took responsibility for those operations. *See* ¶¶ 80, 83, 126, 162-163. They made no effort to investigate the deaths and injuries of unarmed civilians, including children, which were widely reported in the media, to prevent additional deaths or injuries, or to punish those responsible. *See* ¶¶ 77, 82, 124. To the contrary, they repeatedly praised the actions of the Armed Forces. *See* ¶¶ 156, 165. As a result, in that one-month period, the Bolivian military, acting under the command and effective control of Defendants, killed 58 Bolivian civilians, including the Plaintiffs' relatives, and injured hundreds more.

#### **A. The September 20 Killings**

61. On September 20, Defendants personally ordered and supervised a carefully planned military operation that included orders for troops to shoot "at anything that moved." *See* ¶¶ 65-73. As a result, soldiers fired at unarmed villagers in fields and in the mountains and at civilians looking out through the windows of their houses. *See* ¶¶ 69, 73-74. Marlene Nancy



Rojas Ramos, the eight-year-old daughter of Plaintiffs Eloy Rojas Mamani and Etelvina Ramos Mamani, was shot and killed during that operation. *See* ¶ 75.

62. In mid-September, protesters dug trenches and placed rocks on the road between La Paz and Sorata, a small town in the mountains several hours drive from La Paz. A festival had attracted many people to Sorata, including foreign tourists; they were unable to leave because of the blocked roads. Defendants seized upon the fact that foreigners were among those unable to leave Sorata as an opportunity to implement their plan to use military violence to kill civilians.

63. On September 19, Sánchez Berzaín and other military leaders flew by helicopter along the road to Sorata and confirmed that the road was blocked by protesters. Later that evening, a group of high-ranking military officials, in a meeting chaired by Sánchez Berzaín, met to consider responses to the blocked roads. Acting pursuant to an order from Defendant Sánchez de Lozada, they decided to send a military task force early the next morning to clear the road and provide transportation to the foreign tourists.

64. Defendants decided to use military force to open the roads at a time when the Bolivian Constitution required employing the police, not the military, and when non-military options were available, including negotiation with the protestors or using law enforcement measures. Waldo Albarracín, a mediator, had negotiated ends to similar roadblocks in the past, and he and other mediators were available to negotiate with the people blocking the road out of Sorata. One week later, on September 28, Albarracín negotiated the peaceful departure of 200 people who were unable to leave the town of Loquisani because of roadblocks; Albarracín and other mediators talked to the protesters who then allowed the people to leave.

65. The operation in Sorata was ordered and overseen by Sánchez de Lozada, planned carefully by leaders of the Armed Forces, personally commanded, supervised, and directed by Sánchez Berzaín, and carried out under the Defendants' tight control. Defendants Sánchez de Lozada and Sánchez Berzaín were in regular contact by cell phone during the operation.

66. On September 20, a military convoy left the military base at Achacachi at about 5 a.m., heading towards Sorata. About 40 minutes later, the soldiers entered the town of Warisata, which is between Achacachi and Sorata. They repaired trenches that had been dug in the road, fired shots, and threatened and beat people in Warisata.

67. Meanwhile, Sánchez Berzaín flew by helicopter from Achacachi to Sorata, arriving there at approximately the same time as the military convoy. Sánchez Berzaín left the helicopter and shouted at the gathering crowd, "Get those Indians off the roads or I'm going to put a bullet in them." He returned to the helicopter and flew back to the military base in Achacachi. The military convoy loaded the tourists onto buses and turned back towards Warisata.

68. Sánchez Berzaín landed at the Achacachi military base where he consulted with other military officials about the ongoing military operation and communicated with Sánchez de Lozada by cell phone.

69. As the convoy traveled back through the rural area between Sorata and Warisata, troops fired rounds of ammunition at people running for safety in the hills, killing or injuring several of them, although no one was shooting at the convoy. Soldiers threw tear gas and threatened, shot, beat, and detained villagers. A military plane accompanied the convoy between Sorata and Warisata. The military fired shots from a helicopter, injuring at least one person.

70. While the convoy with the tourists waited on the road between Sorata and Warisata, a second military contingent, travelling from Achacachi, approached Warisata from the other side. That contingent entered Warisata at about 3 p.m. Soon after, the military began to shoot in all directions. During the afternoon, two policemen were injured and one soldier was killed. Neither the Armed Forces nor the police ever determined who actually shot the two police officers or the soldier or ruled out the possibility that they had been shot by the police or military. There is no record of any government or military investigation into the circumstances surrounding those shootings and no one was arrested or prosecuted.

71. At approximately 4 p.m., after speaking with Sánchez Berzaín by phone, Sánchez de Lozada spoke to General Gonzalo Rocabado, the acting Commander in Chief of the Armed Forces, and ordered him “to take Warisata.” Following orders from the Defendants and directed personally by them, the military treated Warisata as a military target during the September 20 operation.

72. Later that day, Sanchez de Lozada signed a written order that Sanchez Berzain had dictated, which directed the Armed Forces to use “necessary force” to restore order “[i]n light of the grave aggression by a guerilla group against the forces of public order in Warisata.” However, according to officials in charge of intelligence for both the police and military, there was no indication of any guerilla group activity or any armed organization involved in that day’s events or at any point in September and October 2003.

73. As ordered, the military “took” Warisata. Soldiers were armed with high-powered FAL rifles and each carried five magazines of lethal ammunition and two magazines of non-lethal ammunition, with twenty bullets in each magazine. According to a soldier involved in the military assault, the troops were ordered to use lethal munitions and to shoot “at anything that

moved,” and, when officers saw people looking out the windows of houses, they intentionally shot at those windows. The soldiers also fired at unarmed civilians in the fields and hills.

74. Multiple special forces units participated in “taking” Warisata that afternoon, including units that Sánchez de Lozada had created in 2003 and that were under his direct command. As part of the operation, troops moved through the village, deliberately shooting at unarmed people on the roads, in the hills, and in their homes, and shooting at farm animals.

75. That afternoon, eight-year-old Marlene Nancy Rojas Ramos (“Marlene”) was at home in Warisata with her mother, Plaintiff Etelvina Ramos Mamani, who had given birth a month earlier. Marlene and her mother were on the second floor of their house, which is about a 45-minute walk from the main road that was the site of the roadblock.

- a. Sometime after 4 p.m., Marlene briefly moved to look out a window from inside her home. A single, high-caliber bullet from a military weapon entered through the window, passed through Marlene’s chest, and pierced the wall behind her. A sharpshooter fired the shot from about 75 yards away; no other shots hit the house either before or after the shooting of Marlene.
- b. No shots were fired at the military from the vicinity of the house, and there were no roadblocks or other protests in the vicinity.
- c. Marlene fell onto the bed where her mother was lying with the baby and died seconds later in her mother’s arms. Marlene’s mother clutched her dead child’s body for nearly half an hour until a relative pried Marlene from her arms.
- d. Marlene’s father, Plaintiff Eloy Rojas Mamani (“Mr. Rojas”), heard that his daughter had been shot and came down from the hills where he had fled when the

military began shooting. He was fired upon continuously as he made his way back home.

76. In addition to Marlene, the military shot and killed two other civilians in Warisata that day, shot and injured several more, and beat others.

77. During the tenure of Defendants Sánchez de Lozada and Sánchez Berzaín, the government conducted no investigation into the circumstances of the killing of Marlene or the others, and no one was prosecuted or disciplined for the deaths and injuries.

78. At 6 p.m. on September 20, after Defendant Sánchez Berzaín had returned to La Paz, the military commanders met with him at military headquarters. Shortly thereafter, General Rocabado, the acting Commander of the Armed Forces, ordered the creation of a Joint Task Force with instructions to “[u]ndertake DIT operations” in seven provinces, an area that included Sorata and Warisata. According to the military dictionary used by the Armed Forces, DIT refers to Internal Defense of Territory (“Defensa Interna del Territorio”). DIT operations are counter-insurgency measures used exclusively “to combat subversion” by “groups engaged in clandestine insurrection,” defined as an “uprising . . . or rebellion against an established government.”

79. The alleged justification for these counter-insurgency tactics – that clandestine, subversive armed groups threatened the security of Bolivia – was false. Defendants knew that there was no evidence to support these claims.

80. Also on the evening of September 20, Defendant Sánchez de Lozada called a meeting of the Cabinet, including Vice President Carlos Mesa, other government leaders, and members of the military high command. Defendant Sánchez Berzaín and one of his generals gave a report on that day’s military operations. At that meeting, Defendant Sánchez de Lozada said that he took full responsibility for what had happened.

81. Also at that meeting, Vice President Mesa criticized the civilian deaths and called on the government to enter into dialogue instead of using military force. Defendants and others attending the meeting rejected Mesa's proposal. Rather than considering alternatives or initiating an investigation, the discussion focused how to craft a media response to reports of those deaths.

82. On and after September 20, 2003, Bolivian media provided extensive coverage and criticism of the government's excessive use of force in and around Warisata, as well as of the decisions made by Defendants and others in the administration to use the military to address the situation there. Photographs of the victims, including Marlene, appeared on television and in newspapers.

83. On September 21, Sánchez Berzaín met again with the military high command. They agreed that Sánchez de Lozada would falsely blame the violence on "subversives"; that the political parties participating in the coalition government would publically defend the actions of the military; and that the military would take "[a]ctions against subversion" by imposing military control over the towns of Achacachi, Warisata, and Sorata as well as other areas in the Bolivian highlands. They agreed to order military operations by land and by air. Defendant Sánchez Berzaín stated that he would take responsibility for the military operations.

84. Although participants at the September 21 meeting had agreed to blame the violence in Warisata on foreign "subversives," Defendants were aware that military and police intelligence had concluded that there were neither foreign guerilla groups nor organized armed groups in Bolivia at the time.

85. Top military commanders met twice on September 22. Sánchez Berzaín attended the second meeting. Both meetings, and a third meeting on September 29, focused on how to

control political protests. On September 22, General Rocabado ordered the Armed Forces to undertake military actions to restore order in Sorata. None of the meetings or orders considered employing law enforcement measures to respond to the protests, although no finding had been made that such measures would be an inadequate response to the protests.

86. The killings in Warisata outraged Bolivians throughout the country and triggered additional protests, including hunger strikes and marches. The demand for an end to the violence was coupled with protests against the gas export proposal as well as other issues.

**B. More Killings in Late September and Early October**

87. Following the killings and injuries in Warisata and continuing into early October, Defendants continued to implement their plan. They refused to negotiate with protesters and deployed unlawful, lethal military force against Bolivian civilians who posed no threat to people or property.

88. On September 30, Mateo Laura Canqui, governor of La Paz, negotiated a truce between protest leaders and the army. The terms of the agreement were that the roadblocks would stop, the Armed Forces would pull back, and the government would provide reparations for those injured or killed. When Laura presented the agreement to Sánchez de Lozada, he became livid, rejected it, and refused to withdraw the military.

89. In early October, villagers blocked roads to protest the events in Warisata and Sorata and to oppose the plan to export natural gas through Chile. Strikes spread throughout the country. Protest marches emerged in different areas of the country, several with the goal of converging on La Paz and its neighboring city of El Alto. In attacks on the marches, political protests, and other civilians who were not involved in any protest activities, the military injured more civilians in La Paz and El Alto.

90. People both within and outside the government called for a peaceful solution to the political situation, rather than responding to the protests with the use of military force, but Defendants refused to reconsider their plan.

- a. On October 5, Yerko Kukoc, the Minister of Government, and two other ministers met directly with Sánchez de Lozada, telling him that the country faced political problems that required a political solution, not the use of force. Sánchez de Lozada angrily rejected their advice.
- b. The Catholic Church and other organizations publically called for a dialogue before the situation became more violent and led to more killings.
- c. On October 6, the mayor of La Paz called for a referendum on the export of natural gas.
- d. On October 7, the National Chamber of Industry and the Minister of Economic Development met with Sánchez de Lozada and asked him to refrain from the further use of force to resolve conflict.

91. On October 8, local neighborhood associations and trade unions called for a general strike in El Alto, a large, indigenous city adjacent to La Paz. That morning, the military attacked a community meeting in El Alto, shooting at least two civilians. One woman who tried to intervene as soldiers brutally beat a civilian man was herself injured by the military, and she overheard them saying, “Put her in the truck, she’ll die there like a dog.”

92. On October 9, without warning, armed military forces ambushed a group of miners who had marched into El Alto. That same day, the military repeatedly fired on civilians, including firing shots from a helicopter, and killed two more civilians, beat several others, and injured more than twenty. Three more civilians were shot by the military in El Alto the next day.



93. In October, Sánchez de Lozada wrote to Sánchez Berzaín, instructing him to continue his actions to suppress the protestors and assuring Sánchez Berzaín that he had the full support of Sánchez de Lozada. Sánchez de Lozada instructed Sánchez Berzaín not to “lower his arms” in the face of popular protest.

94. Since early October, roadblocks in El Alto had created a shortage of gas in La Paz, because gas was distributed from a plant in El Alto. On October 8, various government officials met with the drivers of the gas tankers, who refused to drive to La Paz.

95. On the evening of October 10, Sánchez Berzaín convened a meeting with the leaders of the association of gas station owners, along with other members of the Armed Forces, to discuss plans to move a convoy of gas tankers from the Senkata gas plant in El Alto to La Paz. In response to the owners’ concerns for safety, Defendant Sánchez Berzaín said, “there will be deaths, but there will also be gasoline.”

96. On October 10, some military leaders urged a political resolution, but Sánchez de Lozada remained committed to the use of unlawful, lethal military force to terrorize the population and quell the protests.

97. Also on October 10, additional troops arrived in La Paz by air from the interior province of Beni, just as Defendants had planned even before they took office (*see* ¶ 30). The troops joined several other special forces units brought in from outside the region.

98. On the morning of October 11, the police were ordered to pull completely out of El Alto and the military was ordered to take complete control of the city.

99. Early in the evening of October 11, a large military contingent carrying weapons of war and accompanied by heavily armed trucks escorted a single gas tanker truck from the Senkata gas plant in El Alto towards La Paz. During this operation, the military killed or

wounded several civilians by gunfire, including a five-year-old boy who was shot in the head and killed while standing on the patio of his home, far from the demonstrations. Defendant Sánchez Berzaín was personally present at the Senkata gas plant on October 11.

100. On October 11, at the end of an all-day meeting that included both Defendants, the Cabinet adopted Decree 27209 (“Decreto Supremo 27209”), which used the gas shortage in La Paz as justification to further proceed with their plan, by declaring a state of emergency throughout the country and putting the military in charge of transporting gas to La Paz. The Decree placed Sánchez Berzaín in charge of its implementation.

101. In a letter sent later on October 11, Sánchez de Lozada ordered the Armed Forces to use “all necessary resources” to “restore and maintain order and public security” in El Alto. Sánchez Berzaín drafted the letter, commenting to other officials that the written order was very important because the military would not move until they had it.

102. At 10 p.m. on October 11, Father Ricardo Zeballos, a Jesuit priest, Waldo Albarracín (the mediator from the Permanent Assembly for Human Rights), and others met with Sánchez de Lozada to ask him to resolve the conflicts through dialogue and offered to act as mediators. Sánchez de Lozada replied, in a threatening voice, that the mediators should tell the demonstrators that “if they want dialogue for the gas, they’ll have dialogue, but if they want war for the gas, they’ll have war, and we will shoot all the violent people in El Alto.” The mediators left the meeting after agreeing to open a dialogue between the government and the demonstrators. The agreement fell apart because the military continued its killing spree the very next day and government representatives refused to talk to the mediators.

### **C. The October 12 Killings in El Alto**

103. The following week, after Sánchez de Lozada had rejected repeated, mounting calls for dialogue, the military killed dozens more citizens in operations carried out under the control of the Defendants. Rather than attempting resolution of the conflict through negotiation, Defendants adhered to their plan to treat Bolivian citizens as if they were armed, enemy combatants who could be shot and killed on sight.

104. October 12 was the most deadly day of government violence, with 30 people killed in El Alto alone. The military conducted operations through El Alto shooting at people on the street and in their homes. *See* ¶¶ 107-127. Officers ordered soldiers to shoot civilians, and some soldiers were themselves attacked if they refused. *See* ¶¶ 122-123. As part of the operations, the military shot and killed the relatives of five of the Plaintiffs on that day despite the fact that none posed any threat to people or property when they were killed. *See* ¶¶ 112-120.

105. As the military escalated its use of violence, the mediators who had met with Sánchez de Lozada the night before tried to contact him but continued to be ignored.

106. Government officials, including Cabinet ministers and representatives of the political parties in the governing coalition, met at the presidential residence the entire day of October 12.

107. Pursuant to Sánchez de Lozada's signed orders, the military executed two coordinated operations in El Alto on October 12, involving multiple units and hundreds of armed soldiers. One operation proceeded up the Avenida 6 de Marzo, which runs through El Alto from south to north, passing in front of the Senkata gas plant, and was the route used to transport gas from the plant to La Paz. The second operation took place primarily along the Avenida Juan

Pablo II, a main highway that enters El Alto from the west and passes through the heart of the city, but does not lead to the gas plant.

108. At noon on October 12, with the military operations already underway, the General Staff (“Estado Mayor General”) of the Armed Forces met to discuss bringing additional troops from the interior of the country and to review the situation in El Alto. Shortly thereafter, General Claros, Commander in Chief of the Armed Forces, who was under the command of Defendant Sánchez de Lozada, issued Directives 33/03 and 34/03, which authorized the formation of six military Joint Task Forces, with all necessary combat equipment, and authorized them to use “DIT” military measures in eight regions of the country, including La Paz and El Alto, with the false justification that armed groups were attacking people and property in multiple parts of the country.

- a. There were no reports from military intelligence at that time to support the claim that “armed groups” were attacking people or property in Bolivia.
- b. The Bolivian military dictionary defines “combat” – the term used in these directives – as “violent action in which two military forces of comparative strength confront each other.”
- c. The Bolivian Armed Forces were not engaged in “combat” with another military force at any point in September or October 2003.
- d. “DIT” operations are “used exclusively to combat subversion.” The Bolivian Armed Forces were not confronting “subversion” – defined as a clandestine uprising or rebellion, see *supra* paragraph 40 – at any point in September or October 2003.

- e. There was no evidence that any civilians fired at the military during the operation in El Alto on October 12.

109. Most of the killings in El Alto took place during the military operation along Avenida Juan Pablo II, not near the gas plant or the road that leads from the plant to La Paz. Ten Army units participated in this prong of the operation, including two highly trained special forces units flown in from the interior province of Beni. In addition, four Air Force units were deployed along Avenida Juan Pablo II, including two that were also brought in from Beni.

110. The troops involved in the Avenida Juan Pablo II operation split into two columns in order to attack a group of protesters on the Rio Seco Bridge from both sides. One group approached from the west, while the other circled around the bridge to approach from the north, traveling through residential neighborhoods of El Alto.

111. As these troops passed through residential neighborhoods, military sharpshooters fired at civilians without warning, killing and wounding them as they tried to hide, and shooting others as they looked out of windows or stood on balconies. Soldiers fired from a helicopter as well. As part of the military attack on El Alto ordered by Defendants, sharpshooters turned off Avenida Juan Pablo II and shot people who posed no threat to persons or property, on side streets far from the site of any protests or blockades.

112. That afternoon, Teodosia Morales Mamani (“Ms. Morales”), a thirty-nine-year-old pregnant mother with seven children, was visiting her sister’s home on Avenida Juan Pablo II, several blocks from the Rio Seco Bridge. She was inside the house and not engaged in any protests against the government, nor did she have any connection whatsoever to the protests. Several family members looked out of the windows of the home and saw roughly 200 to 300 soldiers passing down Avenida Juan Pablo II, walking towards the Rio Seco Bridge, carrying

rifles and machine guns. Soldiers yelled at people looking out of their windows, “What are you looking at? I’ll kill you!” and shouted, “Shoot them, damn it!”

113. After attacking the demonstrators at the bridge, the soldiers returned, shooting at civilians in the road and at apartment buildings lining the road. Around 4 p.m., a soldier on the Avenida Juan Pablo II fired at the apartment of Ms. Morales’ sister. Ms. Morales was sitting on the floor, next to the window where family members had been standing earlier. The bullet hit Ms. Morales and passed through her abdomen, causing devastating internal injuries. It took some time for Ms. Morales’s family to get her to a hospital due to continued shooting outside of the apartment. She underwent an operation at about 1:30 a.m. on October 13, but both she and her unborn child died in the early hours of October 14. Plaintiff Teófilo Baltazar Cerro is now the sole supporter of their seven children.

114. The military injured other civilians in the same area of El Alto by using the same tactic of shooting at people who sought the safety of their homes. One woman was shot in her home in front of her family. Another was shot in the arm through the door while letting in an injured neighbor. A man lost an eye when he was shot in the face while watching the soldiers from his terrace. A man saw a soldier shoot his neighbor, who was watching from his home, then was shot himself as he went to help the neighbor.

115. As part of the continuing operation, military forces turned off the Avenida Juan Pablo II and swept through adjacent neighborhoods, continuing to shoot at unarmed civilians. On October 12, nineteen-year-old Roxana Apaza Cutipa (“Ms. Apaza”), the sister of Plaintiff Hernán Apaza Cutipa (“Mr. Apaza”), was on the roof of her house in the Los Andes zone of El Alto, away from the protests, when a soldier shot her. The bullet entered through her left ear and passed through the back of her head, near her neck. Mr. Apaza found his sister dead on the

terrace several minutes later, after his younger brother told him that she had been shot. Ms. Apaza was unarmed. The death of Ms. Apaza, the oldest female sibling, was devastating for the family, as she and her five siblings had been orphaned several years earlier. Her younger siblings depended heavily on Ms. Apaza.

116. Fifty-nine-year-old Marcelino Carvajal Lucero was in his house on Avenida Juan Pablo II in the Tunari zone of El Alto with his wife, Plaintiff Juana Valencia de Carvajal (“Mrs. Carvajal”), in the early evening of October 12. When he went to close a window, a soldier shot him in the chest from 19 yards away. The bullet passed through his body and entered the wall behind him.

117. In addition to the operations on the Avenida Juan Pablo II, military operations took place near the gas plant and on Avenida 6 de Marzo, the road that leads from the gas plant to La Paz, at the opposite end of El Alto. This simultaneous operation began at around 6 a.m., when various units were deployed to the Senkata gas plant. The troops carried weapons with live ammunition. Twelve different military units were involved, including highly trained special forces units.

118. Gas tankers left the Senkata plant around 1:30 p.m., accompanied by military troops as they traveled along the Avenida 6 de Marzo, in an operation now known as the “convoy of death.” Soldiers began shooting at civilians immediately after exiting the gas plant.

119. Civilians fled from the area to escape the shooting. They were neither armed nor throwing rocks. Military officers took position in a line across the street from the gas plant and shot and killed a civilian who looked out from behind a small kiosk, prompting others to run for safety. The soldiers continued to shoot, targeting the people running for shelter.

120. Plaintiff Sonia Espejo Villalobos' husband, Lucio Santos Gandarillas Ayala ("Mr. Gandarillas"), was one of the individuals shot by military officers in front of this kiosk. Mr. Gandarillas had left his house in El Alto early that morning to take gas to his brother in Llojeta, a neighborhood south of La Paz. Shortly after the soldiers shot Mr. Gandarillas in the abdomen, he was taken into the kiosk, but he could not be transported to seek treatment for his injuries until the military left. Plaintiff, his wife, received a call informing her that Mr. Gandarillas was in the hospital, where she found him still alive but losing blood quickly. She accompanied him in an ambulance to a different hospital. Mr. Gandarillas was bleeding and screaming in pain during the entire trip and died in the hospital that evening from his injuries. The kind of weapon that caused his fatal wound was only available to the military. At the time, Plaintiff and Mr. Gandarillas had a four-year-old, and were expecting their second child.

121. Soldiers killed four other civilians in the Avenida 6 de Marzo operation, and several more were injured.

122. A group of soldiers who were ordered to shoot at civilians near a bridge in El Alto refused to do so; their commanding officer threw tear gas at them, then ordered them to retreat and sent another unit to replace them. One soldier described the people he had been ordered to shoot as local residents participating in demonstrations. When asked why he had refused to fire, he said, "I couldn't shoot my own people."

123. On information and belief, another soldier who refused to fire on civilians was killed by one of his superior officers after he refused to follow orders to shoot at civilians in El Alto, and other resisting soldiers were taken to an Air Force base and beaten severely.



124. Neither the civilian government nor the military ordered an investigation of the dozens of deaths in El Alto on October 12, suggested that those responsible should be disciplined or punished, or even acknowledged that any civilians had been killed.

125. Vice President Mesa met with Sánchez de Lozada at lunch that day and told him, “These deaths are going to bury you.” Later that evening, at the end of the all-day meeting of government leaders, after they had been told of the deaths that day, Sánchez de Lozada told Mesa, “I’m too old to change.”

126. On the evening of October 12, Defendant Sánchez de Berzaín came to see General Claros and other top military leaders and emphasized to them that the Armed Forces were required to obey orders from the President, Defendant Sánchez de Lozada, who was responsible for the actions of the military.

127. The next day, October 13, the Armed Forces published a communiqué that condemned violence against the Armed Forces and the killing of a soldier, without mentioning that the military had killed more than 30 civilians that day in El Alto alone. The communiqué blamed “subversive delinquents” for the soldier’s death.

#### **D. The October 13 Killings South of La Paz**

128. On October 13, in continuation of Defendants’ plan to use unlawful, lethal military force against Bolivian civilians, troops under the personal command of Defendant Sánchez Berzaín shot at villagers and chased them into the mountains and through their own villages to the south of La Paz. *See* ¶¶ 133-145. Defendant Sánchez Berzaín was present during the operation, giving orders and directing the troops where to shoot. *See* ¶ 137. As part of the operation, the military shot and killed the relatives of three of the Plaintiffs, despite the fact that none posed any threat to people or property when they were killed. *See* ¶¶ 140-142, 145.

129. The dozens of deaths on October 12 accelerated the national outcry against the ongoing military violence, with members of all sectors of Bolivian society joining the growing protests.

130. In a series of meetings throughout the day on October 13, the Cabinet, the High Military Command (“Alto Mando Militar”), and the Defendants met to discuss the unfolding events. Notably, neither the deaths in El Alto on October 12, nor the widespread outrage in response to those deaths, led Defendants to reconsider their plans.

131. The military operation in the area known as the South Zone (“Zona Sur”) of La Paz had begun in early October, when the Commander in Chief of the Army, under the command and control of Defendants, ordered a large combined force with hundreds of troops to take control of the area to prevent civilian marchers from entering La Paz via the Ánimas Valley road to the southeast of the city. There are no gas plants along the road, and the road is not used to transport gas into La Paz. The villages of Apaña and Uni are set some ways back from the road, a winding route with little traffic.

132. On October 12, military units were ordered to camp overnight near the village of Uni. The units’ assignment was to clear blockades and to stop protesters from entering the South Zone of La Paz by that route.

133. Early on the morning of October 13, a group of civilians from the surrounding villages set up a blockade on the Ánimas Valley road to protest the killings of the previous several days.

134. At approximately 9 a.m., the military units left Uni in a convoy, moving toward the place where the road was blocked. Soldiers fired tear gas canisters and non-lethal bullets at villagers as they passed.

135. At some point that morning, Edgar Lecoña Amaru, a nineteen-year-old soldier, was killed with a single shot from a sharpshooter. Although only military officers in the Bolivian Armed Forces receive sharpshooter training, some soldiers in his unit assumed that he had been killed by a villager.

136. Officers ordered the soldiers to switch from non-lethal to lethal ammunition and to open fire with rifles and machine guns. The soldiers were ordered to “shoot at any head that you see.” After approximately one hour, the soldiers ran out of ammunition.

137. Soon thereafter, a helicopter arrived, carrying Defendant Sánchez Berzaín and additional ammunition. Sánchez Berzaín ordered military personnel in the helicopter to shoot at the people below. Authorization to send the helicopter with additional ammunition came in a call from General Véliz, who was at the time of the call in a meeting with Defendant Sánchez de Lozada and the Military High Command. The helicopter flew over the area, circling twice and firing at civilians on the ground before landing near Uni. Soldiers unloaded munitions from the helicopter in large boxes and delivered them to other military personnel. The shooting then intensified again as the military encircled the Ánimas area.

138. Resupplied with ammunition, the soldiers were ordered to chase unarmed civilians into the hills. Over the course of the next several hours, the military killed seven civilians. Soldiers shot one man in the forehead from a distance of several hundred yards, as he hid behind a rock to shield himself from the soldiers’ gunfire. Another civilian was also killed by a single shot to the head.

139. The soldiers were ordered to ignore injured civilians and therefore refused to stop to assist those with bullet wounds.

140. Earlier that morning, Jacinto Bernabé Roque (“Mr. Bernabé”), a sixty-one-year-old man and the father of Plaintiff Hermógenes Bernabé Callizaya, left Apaña and walked toward another son’s home in Uni. He intended to travel through the hills so that he could retrieve his crop of lettuce and carry it back to Apaña. Mr. Bernabé and several other villagers were in the hills when the military began shooting at them. Although he tried to hide in the brush, at approximately 11 a.m., the military shot Mr. Bernabé, hitting him in the leg. The shot was fired from below, from a distance of over 300 yards. By the time his sons and the other villagers found Mr. Bernabé, he had bled to death. His sons carried his body down the hill in a blanket.

141. Also on October 13, Arturo Mamani Mamani (“Mr. Arturo Mamani”), a forty-two-year-old man, was tending his family’s small potato field with his teenage son, Plaintiff Gonzalo Mamani Aguilar (“Mr. Gonzalo Mamani”). The field was in the mountains, hundreds of yards from the road. After military personnel began firing from below, Mr. Arturo Mamani and his son climbed higher up into the hills away from the gunfire. From that vantage, Mr. Arturo Mamani witnessed military personnel shoot his brother further down the hill.

142. At approximately 11 a.m., military personnel shot Mr. Arturo Mamani through the leg and foot from the valley below, at a distance of over 320 yards. After the military moved down the road toward the South Zone, Mr. Arturo Mamani’s neighbors carried him down the hill and attempted to find medical assistance for his injuries. He died on the road to the hospital.

143. At approximately 2 p.m., the military headed back down the road toward La Paz. The soldiers were under orders to shoot at civilians and at anyone they saw in a window of a house as they drove down the road.

144. As they passed out of the Ánimas area and into the village of Ovejuyo, the soldiers continued to shoot at unarmed civilians. Soldiers fired at a drunken man who feigned death and at houses. One house was hit three separate times.

145. Later that day in Ovejuyo, the military shot and killed Raúl Ramón Huanca Márquez (“Mr. Raúl Huanca”), the father of Plaintiff Felicidad Rosa Huanca Quispe. As the convoy passed through the village, Mr. Raúl Huanca, who had been on his way to a small store to buy groceries, tried to hide from the military behind a store, along with several younger men who were trying to avoid being shot by soldiers firing from a nearby bridge. The young men jumped down to a dry riverbed, but Mr. Raúl Huanca, who was older and less agile, was unable to follow. The soldiers shot him in the abdomen. The young men were unable to reach him to offer help because the soldiers were still firing from the bridge. Mr. Raúl Huanca died as a result of the shots to his abdomen.

#### **The Final Days of the Sánchez de Lozada Presidency**

146. On October 13, Vice President Mesa formally announced that he was distancing himself from the administration of Sánchez de Lozada and repudiated the policy of killing civilians. He said that he made the decision after learning about the deaths on October 12. Mesa said that the number of deaths was intolerable and that there was no justification for the killings. At a press conference he stated, “I cannot accept the point at which we have arrived; there is no justification for the death of persons.”

147. The Minister of the Economy, Jorge Torres Obleas, resigned that evening, stating that the conflicts had exposed “irreconcilable differences” between his vision and that of Sánchez de Lozada. In a letter of resignation addressed to Sánchez de Lozada, he said that, as he had told Sánchez de Lozada since the beginning of the conflicts and again in the Cabinet meeting

that same day, he “did not believe in solutions based on force, and even less so when the majority of the population is on the other side” of the conflict.

148. That evening, with many people demanding his resignation, Sánchez de Lozada appeared on television, stated that he would not resign, and falsely claimed that Bolivia was “threatened by a massive subversive project, organized and financed by foreign sources in order to destroy Bolivian democracy.” Again, internal, contemporaneous intelligence reports contradicted the claims that foreigners or “subversives” were behind the political protests.

149. As the number of civilian deaths and injuries escalated, members of the government expressed their opposition to the Defendants’ use of military violence against civilians engaged in political protest, but Defendants remained committed to their unlawful plan.

- a. On October 12 and 13, some members of the cabinet urged a referendum on the gas export plan. Defendants rejected the idea in favor of a government “firm hand.”
- b. On October 13, top military officers informed Defendant Sánchez de Lozada that a military solution to the political protests would require thousands more casualties.
- c. On October 14, Juan Fernando del Granado Cosío, the mayor of La Paz, called on Sánchez de Lozada to resign, stating that “a death machine has been installed in the government, and only the resignation of the head of state can stop it.”
- d. On information and belief, on October 14 or 15, cabinet member Kukoc and Sánchez Berzaín came to blows when Kukoc argued that the killing had to stop and Sánchez Berzaín disagreed.

150. Throughout the country on October 14, citizens started marching toward La Paz. Additional troops were deployed to various sectors to prevent the protesters from reaching the capital.

151. On October 15, in Patacamaya, about 60 miles from La Paz, hundreds of soldiers ambushed a group of miners who were in the midst of a protest march to the capital. Soldiers fired at the miners and nearby civilians in the streets, in restaurants, and from a helicopter flying overhead, killing two and injuring about a hundred more. Military personnel shot a woman from the helicopter while she was hanging clothes on her patio and shot another man while he was waving a white piece of cloth as high as he could as a sign of peace.

152. On October 15, former Ombudsman Ana Maria Romero de Campero led a hunger strike, joined by hundreds of professionals, religious leaders, business people, and people from Bolivia's middle class. Massive peaceful marches filled La Paz, with some of the marchers carrying flowers. Around the country, an estimated one million persons participated in protest marches demanding an end to the military violence.

153. On October 15, Mauricio Antezana, the presidential spokesperson, appeared on television and read a proposal endorsed by the political parties participating in the coalition government, including the Defendants' political party, that offered to consider the possibility of a referendum on the plan to export gas. Although dozens of civilians had been killed by the military over the preceding few days, the statement made no mention of the civilian deaths and concluded with a threat, stating that, if the "social protests . . . continue," despite this offer, "it will be clear that they reflect political interests designed to end both the constitutional system and the unity of the nation."

154. Shortly after reading the proposal on television on October 15, Antezana resigned, saying that he could not accept the deaths and violence. A vice-minister, Vincent Gómez García Palao, resigned for the same reason that same day.

155. Also on October 15, the Armed Forces published a communiqué that affirmed that the Armed Forces were under the command of the President and took orders from the Minister of Defense, and that they “reiterated their subordination to, compliance with, and support for the President of the Republic and Captain General of the Armed Forces, Gonzalo Sánchez de Lozada.”

156. On October 16, members of the coalition government met with the Army Staff (“Estado Mayor”). According to the official military record of the meeting, Sánchez Berzaín opened the meeting by noting the excellent work the military was doing. He commended the Army for strictly following the orders issued by Sánchez de Lozada, as the Captain General of the Armed Forces. He falsely claimed that the political protests were supported by anarchists working with drug traffickers who were relying on economic and political falsehoods and were supported by the Colombian National Liberation Army (“Ejército de Liberación Nacional” or ELN), Shining Path (“Sendero Luminoso” or SL), and the Cuban and Venezuelan governments, whose leaders, he said, were “openly intervening” in the sovereign affairs of Bolivia. No facts supported any of these claims.

157. At this meeting, leaders of the political parties represented in the coalition government expressed support for the work of the Armed Forces. The commander of the army noted that the Armed Forces took their orders from the Captain General – the President of Bolivia, Defendant Sánchez de Lozada.



158. The general in charge of the Supreme Council of National Defense asked Sánchez de Lozada for a meeting of the Council to help find a way to resolve the crisis and recommended that the military be used only in defense of military and other strategic installations or to support the police in preventing looting.

159. The same day, in a radio interview, Vice President Carlos Mesa was asked, “Do you have the courage to take responsibility for the deaths that this government, the government that you have been part of, is responsible for?” Mesa cut short the interview, but later issued a statement in which he said: “I have been asked if I have the courage to kill and my answer is ‘no,’ I do not have the courage to kill, and I won’t have the courage to kill tomorrow, and for that reason it is impossible to think that I might return to the government, because the defense of ethical principles, a moral vision, and a basic concept of the defense of life, prevent me from returning to be part of the current government of the nation.”

160. Also on October 16, Sánchez de Lozada spoke on the radio accusing Carlos Mesa of sedition and falsely claiming that drug dealers (“narcosindicalistas”) and the Revolutionary Armed Forces of Colombia (“Fuerzas Armadas Revolucionarias de Colombia” or FARC) were trying to turn Bolivia into a battleground.

161. That same day, in a radio interview, Sánchez Berzaín stated that the president would not resign, “even if they march for two months.” Later, he suggested moving the government to Santa Cruz, and, at a cabinet meeting, he claimed that the opposition was losing force.

162. At two separate meetings on October 17, the members of the military high command discussed the impact of the crisis on the Armed Forces, including the possibility that some officials might face criminal prosecutions. Sánchez Berzaín told the meeting that

negotiations about possible criminal prosecutions of military and political leaders were underway. Sánchez Berzaín also said that Sánchez de Lozada, the commander of the Armed Forces, bore responsibility for all of the military's actions.

163. That same day, Sánchez de Lozada gave a radio interview in which he accepted responsibility for the deaths the conflict had produced. He said, “[T]he responsibility for the deaths always falls on the President. He has the authority [and] responsibility and should not permit this.”

164. Also on October 17, the U.S. Embassy issued a public statement withdrawing support for Defendant Sánchez de Lozada and his government. On that same day, Sánchez de Lozada resigned the presidency. Both Defendants immediately fled to the United States. Vice President Carlos Mesa succeeded to the presidency, as provided for in the Constitution.

165. At 10 p.m. that evening, the commander of the army issued a statement in which he acknowledged that members of the Armed Forces had successfully complied with the orders of their superiors.

### **The Criminal Trial of Those Responsible for the Deaths of September and October 2003**

166. In October 2004, one year after Defendants fled Bolivia, the Bolivian Congress authorized a Trial of Responsibilities (“Juicio de Responsabilidades”) to determine the criminal liability of Defendant Sánchez de Lozada, Defendant Sánchez Berzaín, and other top leaders of the government and the military for the deaths and injuries during September and October 2003.

167. In December 2006, the Prosecutor filed pre-indictment accusations against Sánchez de Lozada and Sánchez Berzaín.

168. In March 2007, both Defendants were declared fugitives from justice (“rebeldes”), and in September 2007, the court ordered the Bolivian government to request their extradition from the United States.

169. In October 2007, the Prosecutor filed a formal indictment against seventeen former government leaders, including the Defendants, other cabinet ministers, and top officials of the Armed Forces.

170. The trial of the seven defendants who had not fled Bolivia began in May 2009 before a panel of judges from the Bolivian Supreme Court. On August 30, 2011, the Court issued a judgment finding those defendants guilty of the crime of genocide through mass killings (“genocidio en la modalidad de masacre sangrienta”), Bolivian Penal Code, art. 138, and sentenced them to between three and fifteen years in prison.

171. Defendants Sánchez de Lozada and Sánchez Berzaín have refused to return to Bolivia to face criminal trial. Both are currently residents of the United States. Bolivian law does not permit trials in absentia.

#### **PLAINTIFFS HAVE EXHAUSTED ALL AVAILABLE REMEDIES IN BOLIVIA**

172. In October 2003, Defendants fled the jurisdiction of the Bolivian courts and efforts to extradite them from the United States to Bolivia have, to date, been unsuccessful.

173. In November 2003, the Bolivian government enacted a Humanitarian Assistance Agreement to provide “humanitarian assistance compensation,” including “emergency and funeral expenses,” to the “widows and legitimate heirs” of those who were killed by the military in September and October of 2003.

174. Plaintiffs received the monies from the Bolivian Government to which they were entitled under the Humanitarian Assistance Agreement.

175. In November 2008, the Bolivian government enacted legislation entitled “Law for the Victims of the Events of February, September, and October of 2003,” known as Law No. 3955, which stated that its purpose was to “grant the benefit of a single payment, as well as

academic assistance and public acknowledgment of the victims of February, September, and October of 2003.”

176. Plaintiffs received the monies from the Bolivian Government to which they were entitled under Law No. 3955.

177. Law No. 3955 stated explicitly that the benefits it awarded to surviving family members of those killed during September and October 2003 “in no way expunge the criminal, civil or other type of liability” of the perpetrators of the abuses in proceedings in Bolivian or foreign courts or before international tribunals.

178. Defendants have not themselves accepted liability for the harm they caused Plaintiffs, have not paid compensation to them, and have not been held accountable in any court of law for their actions.

179. Plaintiffs have exhausted all adequate and available remedies in Bolivia.

### **GENERAL ALLEGATIONS AS TO LIABILITY**

#### **A. Defendants’ Command Responsibility Liability for the Acts of the Subordinates**

180. Defendants are liable for the extrajudicial killings, crimes against humanity, and wrongful deaths committed by their subordinates in the Bolivian Armed Forces.

181. Defendants had command responsibility for the actions of the Bolivian Armed Forces because they were the military commanders of the Armed Forces with a superior-subordinate relationship to all members of the Armed Forces, as stated in the Bolivian Constitution and the Organic Law of the Armed Forces. *See* ¶¶ 17, 32, 36.

182. Defendants had effective command and control of those forces, given that, *inter alia*, they issued orders to the Armed Forces, supervised implementation of their orders, and their orders were obeyed. In addition, Defendant Sánchez Berzaín had operational control over the

military and was physically present and giving orders during military operations, and Defendant Sánchez de Lozada was in regular communication with military commanders and with Defendant Sánchez Berzaín during military operations, either by telephone or in person.

183. The Defendants and the commanders of the Armed Forces repeatedly stated that, during September and October 2003, the Bolivian military was under the command of Defendant Sánchez de Lozada and following orders. *See* ¶¶ 65, 67-68, 71-72, 80, 83, 126, 162-163.

184. Defendants purposefully directed the Armed Forces to use unlawful, lethal military force against unarmed civilians who posed no danger to persons or property that would justify the use of such force, in order to implement their plan to quash political protests and terrorize the civilian population.

185. Defendants knew that the members of the Armed Forces had committed and were about to commit extrajudicial killings, crimes against humanity, and wrongful deaths, because, *inter alia*, they had ordered the Armed Forces to treat unarmed civilians as enemy combatants; they received regular and contemporaneous reports on Armed Forces operations; the killings were widely reported in the media; members of their Cabinet and prominent civilians discussed the killings with them and urged them to refrain from additional killings; and Defendant Sánchez Berzaín was personally present at the time some of the killings occurred. *See* ¶¶ 5, 38, 42, 45, 48-50, 56-57, 61, 77, 81-82, 88, 90, 96, 102-103, 105, 125, 149, 124, 137. For the same reasons, Defendants should have known that the members of the Armed Forces had committed and were about to commit extrajudicial killings, crimes against humanity, and wrongful deaths.

186. Defendants could have prevented the unlawful killings and crimes against humanity committed by their subordinates and failed to do so; to the contrary, they intentionally

directed subordinates to advance their unlawful plan and repeatedly commended the Armed Forces for their conduct. *See* ¶¶ 61-145, 156, 165.

187. Although the killings and violence occurred in multiple incidents at separate locations using the same pattern of lethal force, Defendants failed to investigate or punish their subordinates after the commission of the crimes; to the contrary, they commended the Armed Forces for their conduct. *See* ¶¶ 77, 124, 156, 165.

188. Military troops under the command and control of Defendants unlawfully and deliberately killed plaintiffs' Decedents. None of the Decedents posed any real or apparent threat to persons or property that would have justified the use of deadly force against them. *See* ¶¶ 75, 112-120, 140-142, 145.

**B. Defendants Are Liable as Principals for the Acts of Their Agents**

189. Defendants are liable for the extrajudicial killings, crimes against humanity, and wrongful deaths because the members of the Bolivian Armed Forces who killed Plaintiffs' Decedents were the agents of the Defendants.

190. Members of the Armed Forces who shot and killed dozens of Bolivian civilians, including Plaintiffs' Decedents, and injured hundreds more were acting under Defendants' instructions, authority, and control in that Defendants issued orders to the Armed Forces, supervised implementation of their orders, and their orders were obeyed. In addition, Defendant Sánchez Berzaín had operational control over the military and was physically present and giving orders during military operations, and Defendant Sánchez de Lozada was in regular telephone communication with military units and with Defendant Sánchez Berzaín during military operations.

191. Members of the Armed Forces who shot and killed dozens of Bolivian civilians, including Plaintiffs' Decedents, and injured hundreds more, were acting within the scope of their agency in that Defendants directed that the Armed Forces use unlawful, lethal military force against unarmed civilians who posed no danger to persons or property that would have justified the use of such force and to treat them as enemy combatants. *See* ¶¶ 61-145. Defendants ordered the deployment of the Armed Forces in a manner that they intended and anticipated would lead to the deaths of unarmed civilians who posed no danger to persons or property that would have justified the use of such force. *See* ¶¶ 30-31, 37-41, 51-52, 58, 60, 64, 71-74, 78-79, 83-84, 87-88, 93, 98-101, 107-108, 131, 136. In light of these actions by Defendants, the soldiers and officers who shot and killed Plaintiffs' Decedents reasonably inferred that Defendants desired them to do so.

192. Defendants ratified and affirmed the conduct of the Armed Forces that led to the deaths of Plaintiffs' Decedents in that Defendants knew of, intended, and condoned that conduct. Defendants knew that the members of the Armed Forces had committed and were about to commit extrajudicial killings, crimes against humanity, and wrongful deaths because, *inter alia*, Sánchez Berzaín was present at the time of some of the killings; both Defendants received regular and contemporaneous reports on Armed Forces operations; the killings were widely reported in the media; and members of their Cabinet and prominent civilians discussed the killings with them and urged them to refrain from additional killings. *See* ¶¶ 42, 45, 48-50, 56-57, 61, 63, 65, 67-68, 71, 77, 81-82, 88, 90, 96, 102, 105, 125, 149, 124, 137. Defendants knew that the killings and violence had occurred in multiple incidents at separate locations using the same pattern of lethal force. *See* ¶¶ 61-145. With that knowledge, beginning with the killings at Warisata and continuing until they left office, Defendants continued to issue the same

instructions for the use of military force, commended the Armed Forces for their conduct, and explicitly took responsibility for the killings. *See* ¶¶ 80, 83, 126, 156, 162-163, 165.

193. Defendants acquiesced in the conduct of the members of the Armed Forces who killed the Decedents by expressly or impliedly adopting those acts in full knowledge of the acts and accepting full responsibility for those acts. Defendants did not investigate the circumstances of the deaths or punish persons responsible. Subsequent to the killings, they ordered further military actions against civilians and they repeatedly commended the Armed Forces for their conduct. *See* ¶¶ 77, 82, 103, 124, 128, 156, 165.

194. At all relevant times, Defendant Sánchez Berzaín was the agent of Defendant Sánchez de Lozada. Sánchez de Lozada granted Sánchez Berzaín the authority to direct the use of lethal force against unarmed civilians. Although Sánchez Berzaín resigned because of his connection to killings in February 2003, Defendant Sánchez de Lozada brought him back to the Cabinet as Minister of Defense in August 2003 and approved his use of military tactics against civilian demonstrators. *See* ¶ 55.

195. Sánchez de Lozada's conduct subsequent to the killings explicitly and implicitly ratified Sánchez Berzaín's conduct in directing the Armed Forces to use lethal force against unarmed civilians. Beginning with the killings at Warisata and continuing until they left office, Sánchez de Lozada condoned Sánchez Berzaín's actions and agreed to the further deployment of the Armed Forces and the use of military tactics against civilians as part of their unlawful plan to quash political protest. Sánchez de Lozada had the authority to remove Sánchez Berzaín from his position and did not do so. *See* ¶¶ 61-165.



196. The actions of Defendants and their agents led to the deaths of Plaintiffs' Decedents. None of the Decedents posed any real or apparent threat to persons or property that would have justified the use of deadly force against them. *See ¶¶ 75, 112-120, 140-142, 145.*

**C. Defendants' Liability for Acts in Furtherance of the Conspiracy**

197. Defendants are liable for the extrajudicial killings, crimes against humanity, and wrongful deaths committed as part of a conspiracy.

198. Defendants and their top military leaders agreed to a systematic plan of unlawful killings as means to quash opposition to their proposed economic programs and to terrorize the population. *See ¶¶ 30-41, 60.*

199. To implement their unlawful agreement, Defendants and their top military leaders defined lawful protest as "subversion" and directed the Armed Forces to use unlawful lethal force against unarmed civilians. As a result of this agreement, the Armed Forces shot and killed dozens of Bolivian civilians, including Plaintiffs' Decedents, and injured hundreds more in multiple incidents in separate locations using the same pattern of lethal force. Despite the increasing number of civilian deaths, Defendants repeatedly commended the Armed Forces and explicitly assumed responsibility for the deaths. *See ¶¶ 156, 165.*

200. Defendants' agreement to suppress opposition to their programs through the use of unlawful lethal force against unarmed civilians led to the deaths of Plaintiffs' Decedents. None of the Decedents posed any real or apparent threat to persons or property that would have justified the use of deadly force against them. *See ¶¶ 75, 112-120, 140-142, 145.*

**FIRST CLAIM FOR RELIEF**  
*(Extrajudicial Killing under the Alien Tort Statute)*

201. All Plaintiffs, in their individual capacity and as personal representatives of the Estates of their deceased relatives, Marlene Nancy Rojas Ramos, Lucio Santos Gandarillas

Ayala, Roxana Apaza Cutipa, Teodosia Morales Mamani and her unborn child, Marcelino Carvajal Lucero, Jacinto Bernabé Roque, Arturo Mamani Mamani and Raúl Ramón Huanca Márquez (“the Decedents”), incorporate by reference the allegations set forth in paragraphs 1 through 200 as if fully set forth herein.

202. Defendants’ plan to suppress opposition through the use of lethal force against unarmed civilians led to the deaths of Plaintiffs’ Decedents. Defendants agreed that killings of civilians were necessary to quash opposition and terrorize the population, directed the Armed Forces to use lethal force, and condoned the killings. None of Plaintiffs’ Decedents posed any real or apparent threat to persons or property that would have justified the use of deadly force against them.

203. Each of the Decedents was killed as the intended result of an unlawful plan to kill unarmed Bolivian civilians that was designed, ordered, and implemented by Defendants. Pursuant to that plan, each of the Decedents was intentionally and deliberately killed by a member of the Bolivian Armed Forces, acting under color of law and acting under the command of, in conspiracy with, and/or as the agent of the Defendants. None of the killings was authorized by any court of law and each was unlawful under the laws of Bolivia and under international law. None of the Decedents was armed, and none was killed because he or she posed a real or apparent threat to people or property at the time of the killing. Each of the killings constituted an extrajudicial killing actionable under the Alien Tort Statute, 28 U.S.C. § 1350.

204. Each of the Decedents suffered severe physical and mental pain and suffering before his or her death. The extrajudicial killings of their relatives caused each of the Plaintiffs

to experience severe mental pain and suffering. As a result, the Estates of the Decedents and the Plaintiffs have suffered damages in an amount to be determined at trial.

205. Defendants' acts and omissions were deliberate, willful, intentional, wanton, malicious, and oppressive and should be punished by an award of punitive damages in an amount to be determined at trial.

**SECOND CLAIM FOR RELIEF**  
*(Extrajudicial Killing under the Torture Victim Protection Act)*

206. All Plaintiffs, in their individual capacity and as personal representatives of the Estates of the Decedents, incorporate by reference the allegations set forth in paragraphs 1 through 200 as if fully set forth herein.

207. Each of the Decedents was killed as the intended result of an unlawful plan to kill unarmed Bolivian civilians that was designed, ordered, and implemented by Defendants. Pursuant to that plan, each of the Decedents was intentionally and deliberately killed by a member of the Bolivian Armed Forces, acting under color of law and acting under the command of, in conspiracy with, and/or as the agent of the Defendants. None of the killings was authorized by any court of law and each was unlawful under the laws of Bolivia and under international law. None of the Decedents was armed, and none was killed because he or she posed a real or apparent threat to people or property at the time of the killing. Each of the killings constituted an extrajudicial killing actionable under the Torture Victim Protection Act, 28 U.S.C. § 1350 (note).

208. Each of the Decedents suffered severe physical and mental pain and suffering before his or her death. The extrajudicial killings of their relatives caused each of the Plaintiffs to experience severe mental pain and suffering. As a result, the Estates of the Decedents and the Plaintiffs have suffered damages in an amount to be determined at trial.

209. Defendant's acts and omissions were deliberate, willful, intentional, wanton, malicious, and oppressive and should be punished by an award of punitive damages in an amount to be determined at trial.

**THIRD CLAIM FOR RELIEF**  
*(Crimes Against Humanity)*

210. All Plaintiffs, in their individual capacity and as personal representatives of the Estates of the Decedents, incorporate by reference the allegations set forth in paragraphs 1 through 200 as if fully set forth herein.

211. The murders of Plaintiffs' Decedents by members of the Bolivian Armed Forces were part of Defendants' systematic plan to shoot and kill Bolivian civilians in order to quash opposition to Defendants' economic programs. Defendants intended to kill thousands of Bolivian civilians, or as many as necessary to terrorize the civilian population and thereby deter civilians from active opposition to Defendants' programs.

212. As part of that plan, each of the Decedents was deliberately murdered by a member of the Bolivian Armed Forces acting under color of law and acting under the command of, in conspiracy with, and/or as the agent of the Defendants.

213. The murders of Plaintiffs' Decedents were part of a plan for widespread or systematic killings that were intended to continue and that ceased only when overwhelming opposition forced the Defendants to resign and leave the country.

214. The murders of Plaintiffs' Decedents violated the customary international law norm prohibiting crimes against humanity because they were part of a widespread or systematic attack against the civilian population, and are therefore actionable under the Alien Tort Statute, 28 U.S.C. § 1350.

**FOURTH CLAIM FOR RELIEF**  
*(Intentional Wrongful Death)*

215. All Plaintiffs, in their individual capacity and as personal representatives of the Estates of the Decedents, allege and incorporate by reference the allegations set forth in paragraphs 1 through 200 as if fully set forth herein.

216. In violation of the laws of the State of Florida and Bolivia, Defendant Sánchez de Lozada and Defendant Sánchez Berzaín wrongfully and intentionally ordered military personnel to use deadly force against the unarmed Decedents, who posed no threat to Defendants, Bolivian military personnel or others. Defendants' wrongful acts caused the deaths of Marlene Nancy Rojas Ramos, Lucio Santos Gandarillas Ayala, Roxana Apaza Cutipa, Teodosia Morales Mamani and her unborn child, Marcelino Carvajal Lucero, Jacinto Bernabé Roque, Arturo Mamani Mamani, and Raúl Ramón Huanca Márquez.

217. Plaintiff Eloy Rojas Mamani is the father and personal representative of decedent Marlene Nancy Rojas Ramos, and Plaintiff Etelvina Ramos Mamani is the mother of decedent Marlene Nancy Rojas Ramos. As a result of the death of their daughter, Mr. and Mrs. Rojas have suffered damages due to mental pain and anguish, medical and funeral expenses, and the loss of future support and services. Plaintiffs Eloy Rojas Mamani and Etelvina Ramos Mamani are the known beneficiaries of decedent Marlene Nancy Rojas Ramos' estate.

218. Plaintiff Sonia Espejo Villalobos is the wife and personal representative of decedent Lucio Santos Gandarillas Ayala. As a result of the death of her husband, Mrs. Espejo and their two surviving children have suffered damages due to mental pain and anguish, medical and funeral expenses, and the loss of future support and services on which she is dependent. The known beneficiaries of decedent Lucio Santos Gandarillas Ayala's estate are his wife Sonia Espejo Villalobos, his children Efrain Santos Gandarillas Espejo and Aldaír Sergio Gandarillas

Espejo, his sisters Victoria Gandarillas Ayala, Lidia Gandarillas Ayala and Viviana Gandarillas Ayala, his brother Willy Flavio Gandarillas, and his mother Andrea Ayala Vda. De Gandarillas.

219. Plaintiff Hernán Apaza Cutipa is the brother and personal representative of decedent Roxana Apaza Cutipa. As a result of the death of his sister, Mr. Apaza has suffered damages due to mental pain and anguish, medical and funeral expenses, and the loss of future support and services on which he and their other younger siblings are dependent. The known beneficiaries of decedent Roxana Apaza Cutipa's estate are her siblings Hernán Apaza Cutipa, Guzman Apaza Cutipa, Richard Apaza Cutipa, Patricia Apaza Cutipa, and Ronald Gabriel Apaza Cutipa.

220. Plaintiff Teófilo Baltazar Cerro is the husband and personal representative of decedent Teodosia Morales Mamani. At the time of the shooting, decedent was five months pregnant. As such, Mr. Baltazar is also the father of his unborn child. As a result of the death of his wife and unborn child, Mr. Baltazar and their surviving children have suffered damages due to mental pain and anguish, medical and funeral expenses, and the loss of future support and services. The known beneficiaries of decedent Teodosia Morales Mamani's estate are her husband Teófilo Baltazar Cerro, her mother Franciscoa Mamani, her sisters Maria Morales Mamani, Magdalena Morales Mamani, and Eulogía Morales Mamani, her brothers Mario Morales Mamani, Tomas Morales Mamani, and Zacarias Morales Mamani, her children Gladys Baltazar Morales, Pedro Luis Baltazar Morales, Jose Luis Baltazar Morales, Abigail Tomasa Baltazar Morales, Jesus Santos Baltazar Morales, Santos Baltazar Morales, Cristian Isaac Baltazar Morales, and Yhuly Andrea Baltazar Morales.

221. Plaintiff Juana Valencia de Carvajal is the wife and personal representative of decedent Marcelino Carvajal Lucero. As a result of the death of her husband, Mrs. Valencia de

Carvajal, as well as her six surviving children have suffered damages due to mental pain and anguish, medical and funeral expenses, and the loss of future support and services on which she is dependent. The known beneficiaries of decedent Marcelino Carvajal Lucero's estate are his wife Juana Valencia de Carvajal, his children, Rosa Felipa Carvajal Valencia, Víctor Santos Carvajal Valencia, Yony Gregorio Carvajal Valencia, Valenriano Leocadio Carvajal Valencia, Santos Sabastian Carvajal Valencia, and Ramiro Guillermo Carvajal Valencia, his brothers Remedios Carvajal Lucero, Miguel Carvajal Lucero, and Julian Carvajal Lucero, and his sisters Deudora Carvajal Lucero and Juana Carvajal Viuda de Vargas.

222. Plaintiff Hermógenes Bernabé Callizaya is the son and personal representative of decedent Jacinto Bernabé Roque. As a result of the death of his father, Mr. Bernabé Callizaya has suffered damages due to mental pain and anguish, medical and funeral expenses, and the loss of future support and services on which he and his family are dependent. Plaintiff Hermógenes Bernabé Callizaya is the known beneficiary of decedent Jacinto Bernabe Roque's estate.

223. Plaintiff Gonzalo Mamani Aguilar is the son and personal representative of decedent Arturo Mamani Mamani. As a result of the death of his father, his mother, his siblings and Mr. Mamani Aguilar have suffered damages due to mental pain and anguish, medical and funeral expenses, and the loss of future support and services on which he and his family are dependent. The known beneficiaries of decedent Arturo Mamani Mamani's estate are his wife Atanasia Aguilar Ticona, and children Gonzalo Mamani Aguilar, Fabiola Mamani Aguilar, Marisol Monica Mamani Aguilar, Rudy Israel Mamani Aguilar and Carlos Daniel Mamani Aguilar.

224. Plaintiff Felicidad Rosa Huanca Quispe is the daughter and personal representative of decedent Raúl Ramón Huanca Márquez, who was unmarried at the time of his

death. As a result their father's death, Ms. Huanca Quispe and her sister have suffered damages due to mental pain and anguish, medical and funeral expenses, and the loss of future support and services on which she and her family are dependent. The known beneficiaries of decedent Raúl Ramón Huanca Márquez's estate are his daughters Felicidad Rosa Huanca Quispe and Hilda Silveria Huanca Quispe.

#### **PRAYER FOR RELIEF**

1. WHEREFORE, Plaintiffs pray for judgment against Defendants as follows:
  - a) For compensatory damages according to proof;
  - b) For punitive and exemplary damages according to proof;
  - c) For reasonable attorneys' fees and costs of suit, according to proof; and
  - d) For such other and further relief as the court may deem just and proper.
2. A jury trial is demanded on all issues.

Dated: June 21, 2013  
Miami, Florida

Respectfully submitted,

By:           /s/ Ira J. Kurzban            
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