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REPORT ON REPARATIONS FOR VICTIMS OF EXTRAORDINARY RENDITION AND TORTURE

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EXECUTIVE SUMMARY

From at least 2001 to 2006, the CIA—with the assistance of the State of North Carolina, its political subdivisions, and Aero Contractors, Ltd., a North Carolina corporation—clandestinely rendered dozens of individuals abroad to imprisonment and interrogation through torture without any legal process. To date, despite numerous reports exposing their participation, neither North Carolina, its political subdivisions, nor Aero have acknowledged their pivotal role in the extraordinary rendition and torture program. They have also failed to provide victims with any form of reparations.

In light of such denials and inaction, this report documents the legal authority for the provision of reparations to victims of extraordinary rendition and torture and other similar human rights abuses as modelled by leading international tribunals and domestic governments. This report contends that North Carolina has both a legal and moral obligation to provide reparations to the individuals it rendered to torture and may use the models discussed in this report for so doing.

The authors of this report researched and evaluated reparations mandated or provided by the United Nations, the European Court of Human Rights, the Inter-American Human Rights System, and various national governments, including Australia, the United Kingdom, Sweden, Canada, and the United States. Despite differences across jurisdictions, the form of reparations shares many commonalities. Most reparations packages include all or any of the following measures, among others:

- investigation and criminal prosecution;
- legal and institutional reform to prevent future violations;
- monetary compensation to cover medical expenses, lost wages, and lost educational and career opportunities;
- public recognition of wrongdoing and official apology; and
- the construction of memorials dedicated to the memory of victims.

Reparations are key mechanisms, not only for healing at an individual or communal level, but also for the maintenance of democratic societies. Eventually, the sun sets on democratic governments that operate with impunity to carry out human rights abuses. Absent concrete steps by North Carolina, its political subdivisions, and Aero to take responsibility for their wrongdoing and provide reparations to the individuals they aided in torturing, the human rights abuses remain ongoing with no remedy or redress in sight. This report calls on these political and private entities to fulfill their legal obligations and comport themselves with leading international tribunals and nations to provide reparations to the victims of extraordinary rendition and torture.

I. INTRODUCTION

North Carolina, through state and local resources, actively participated in the CIA's extraordinary rendition and torture program from 2001 to 2006.¹ As defined by the Open Society Justice Initiative, extraordinary rendition is "the transfer—without legal process—of a detainee to the custody of a foreign government for purposes of detention and interrogation."² North Carolina's participation in this program is evidenced through the state's provision of benefits, resources, and employees to Aero Contractors, Ltd. ("Aero").³ With its corporate headquarters in Johnston County, North Carolina, Aero aided the CIA by operating the aircrafts used to commit violations of torture, abuse, extraordinary rendition, and secret detention.⁴ Although numerous reports have brought North Carolina's participation to light, the state has refused to acknowledge or apologize for its participation in the commission of these acts or to provide reparations to its victims.

This report provides legal support for North Carolina's obligation to provide reparations to these victims and outlines comprehensive reparations as understood at the domestic and international levels. This report proceeds in four sections. Section II introduces an overview of reparations, outlining the most common forms of reparations and describing one of the main reparative theories, dignity restoration. Section III provides a comprehensive review of the forms and mechanisms of reparations, first through the jurisdictions of the United Nations, European Court of Human Rights, and the Inter-American Human Rights System. Section III continues with the forms and mechanisms of reparations as provided by national governments, including Australia, the United Kingdom, Sweden, Canada, and the United States. Finally, Section IV and the Appendix apply these lessons by suggesting specific recommendations for victims of the CIA's extraordinary rendition and torture program under these courts and jurisdictions' models.

II. OVERVIEW OF REPARATIONS

A. TYPES OF REPARATIONS

Reparations for victims of torture can include criminal penalties, compensation, rehabilitation, measures of non-repetition, restitution, and satisfaction. Compensation should be prompt, fair, and adequate, covering "any economically assessable damage," including medical expenses, loss of earnings, and lost educational opportunities.⁵ Measures of non-repetition, which may include mechanisms to monitor future abuses, "strengthening the independence of the judiciary," and changes in legislation or policy, should actively address any cultures of impunity.⁶ Similarly,

¹ For a summary of North Carolina's participation in the CIA extraordinary rendition and torture program, see the report on The North Carolina Connection to Extraordinary Rendition and Torture, researched and prepared by Professor Deborah M. Weissman, law students, and the Immigration and Human Rights Policy Clinic at UNC School of Law (Jan. 2012), available at:

<https://www.law.unc.edu/documents/clinicalprograms/finalrenditionreportweb.pdf> [hereinafter UNC Report].

² OPEN SOCIETY JUSTICE INITIATIVE, *Globalizing Torture: CIA Secret Detention and Extraordinary Rendition* 13 (2013), available at <https://www.opensocietyfoundations.org/sites/default/files/globalizing-torture-20120205.pdf>.

³ UNC Report, *supra* note 1, at 11.

⁴ *Id.*

⁵ Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, General Comment No. 3, ¶ 10 (Nov. 19, 2012) [hereinafter CAT General Comment 3].

⁶ *Id.* at ¶ 18.

satisfaction and “the right to truth,” which recognizes the harm suffered by the victims, is a reparative measure designed to prevent ongoing and future violations and may include sanctions, formal declarations and apologies, and memorials and tributes to the victims.⁷

Rehabilitation, on the other hand, is a process; it recognizes that victims may need medical, psychological, legal, and social services to restore their independence and full participation in society.⁸ To promote victim agency, rehabilitative measures should address individual needs in the context of their cultural, social, and political background.⁹ Ultimately, reparations for victims of torture and extraordinary rendition must be “comprehensive,” incorporating “the full scope of measures required to redress violations[.]”¹⁰ To better understand how reparations achieve redress, the following section introduces one of the central theories behind reparations, dignity restoration.¹¹

B. DIGNITY RESTORATION AND THE VICTIM-CENTERED APPROACH

Dignity Restoration theory advances the personhood and agency of the victim by promoting consideration of the victim’s “subjective needs.”¹² Thus, dignity restoration theory rejects any reparations process that ignores or undermines victim participation. Rather, it recognizes that “personhood and participation” is essential to the concept of liberty—“one’s existence as a human being, free and equal, with power and control over the political processes that govern one’s life.”¹³ Procedurally, dignity restoration theory promotes active victim participation within all steps of the reparations process, including creating a space for victims to recount their abuses, and “deference to victims” in determining the form that reparations should take.¹⁴

By recognizing that torture destroys a victim’s sense of dignity and therefore threatens the very concept of liberty underlying all democratic societies, comprehensive reparations must “address the substantive barriers to liberty.”¹⁵ This includes compensation, education, housing assistance, medical care, access to job training, all of which “raise the standard of living of victim groups, promoting their survival and participation” in society.¹⁶ Therefore, a comprehensive reparations package, combining any and all of the reparative measures that fully restore the victim to themselves, their family, and their community is the state’s recognition that the dignity and liberty of all persons is a fundamental human right. The following section presents how international

⁷ *Id.* at ¶ 16.

⁸ *Id.* at ¶ 11. For a discussion of international approaches to rehabilitation and its purposes, see generally Clara Sandoval Villalba, *Rehabilitation as a Form of Reparation under International Law*, in *Redress 4* (Dec. 2009).

⁹ International Rehabilitation Council for Torture Victims, available at <https://irct.org/what-we-do/rehabilitation-of-torture-victims>.

¹⁰ CAT General Comment 3, *supra note 5*, at ¶ 19.

¹¹ *Id.* The Committee Against Torture considers dignity restoration to be “the ultimate objective” of redress.

¹² United Nations Fund for Victims of Torture, *Seeking Justice for Torture: A Victim-Centered Approach*, Report on Expert Panel and Workshop, 10 (Apr. 11-12, 2018) [hereinafter United Nations Fund].

¹³ Maria J. Matsuda, *Looking to the Bottom: Critical Legal Studies and Reparations*, 22 HARV. C.R. – C.L. L. REV. 323, 389 (1987).

¹⁴ See United Nations Fund, *supra note 12*, at 7; Matsuda, *supra note 13*, at 387.

¹⁵ *Id.* at 391.

¹⁶ *Id.*

tribunals and national governments have honored this fundamental human right through the provision of reparations.

III. FORMS AND MECHANISMS

A. THE UNITED NATIONS

1. *United Nations' Basic Principles and Guidelines on the Right to Reparations*¹⁷

The UN General Assembly instructs that victims of international human rights and humanitarian law violations have a right to reparations. Reparations provided by the UN General Assembly include restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition, and the provided reparations should be proportional to the harm suffered. Restitution should, if possible, restore the victim to their original situation before the violation of human rights occurred.¹⁸ Compensation should be provided to cover any “economically assessable damage.”¹⁹ Rehabilitation as a provided reparation entails providing medical care, psychological care, and legal and social services. Furthermore, satisfaction and guarantees of non-repetition are recommended reparations.²⁰

2. *The Special Rapporteur on Violence Against Women: Lessons Learned*

The United Nations Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo, addressed the need for reparations in the specific context of violence against women.²¹ While the Report is specific to circumstances involving violence against women, the important lessons with regard to reparations are applicable to victims of the CIA’s extraordinary rendition and torture program. The lessons include: inclusion of the victim, the importance of linking individual reparation with structural transformation, combatting stigma, and procedural hurdles and consequences.

When providing reparations, it is important to include the victim by viewing violations from their perspective and including them in the discussion on reparations.²² The Report finds that if violence is not viewed from the perspective of the female victims, reparations are more likely to reflect men’s experience of violence.²³ Additionally, bringing women into the discussion on reparations

¹⁷ Basic Principles and Guidelines can be found at G.A. Res 60/147, Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law (Dec. 16, 2005) [hereinafter *Basic Principals and Guidelines*].

¹⁸ *Id.* Restitution includes the following: “restoration of liberty, enjoyment of human rights, identity, family life and citizenship, return to one’s place of residence, restoration of employment and return of property.” *Id.*

¹⁹ *Id.* Economically assessable damage includes the following: physical harm, loss of earning potential, costs required for legal assistance, mental harm, and moral damages. *Id.*

²⁰ *Id.* Examples of satisfaction and guarantees of non-repetition may be found at *Basic Principals and Guidelines*, *supra* note 17.

²¹ Rashida Manjoo (Special Rapporteur on Violence Against Women, its Causes and Consequences), *Rep. on Violence Against Women, its Causes and Consequences*, U.N. Doc. A/HRC/14/22 (Apr. 23, 2010) [hereinafter *The Report*].

²² *The Report*, *supra* note 21, at 8-10.

²³ *Id.*

is an opportunity for victims to gain a sense of agency that may act as rehabilitation.²⁴ Similar to the findings in the Report, it is important to include victims of extraordinary rendition and torture in the debate on reparations.

Furthermore, the Report finds that linking individual reparations with structural transformation will address the structural causes that result in violence by tackling the root causes of violence.²⁵ In the specific instance of the CIA's program, structural causes of human rights violations included Islamophobia and weak human rights systems in the United States.

When seeking reparations, victims encounter procedural hurdles in the judicial system. The Report suggests that when litigation ensues, victims experience re-victimization through the "pain associated with cross-examination and the lack of trust in the judicial system."²⁶ Achieving reparations through administrative processes may be more beneficial.²⁷ Concerning victims' of extraordinary rendition and torture, it is important to ensure that further victimization is not experienced in the judicial process.

B. THE EUROPEAN COURT OF HUMAN RIGHTS

1. Background Information²⁸

The European Court of Human Rights (ECtHR or the Court) was established in 1959 according to the terms of the European Convention on Human Rights (ECHR). The Convention tasks the Court with: "ensur[ing] the observance of the engagements undertaken by the High Contracting Parties in the Convention and the Protocols," and with protecting the rights of the Convention in the member states of the Council of Europe. Since 1998, individuals have been able to submit complaints directly to the European Court of Human Rights.

The Court has jurisdiction to decide complaints brought by individuals, groups of individuals, nongovernmental organizations, and European states alleging violations of the Convention by a state that is party to the Convention. Under Protocol 16, the Court also has advisory jurisdiction to allow member states to request advisory opinions from the Court for interpretation of the Convention or questions on the Convention.

There are two phases for applications: the admissibility phase and the merits phase. In the admissibility phase, the applicant must demonstrate that the applicant has exhausted domestic remedies, has filed her application within six months of the final domestic judicial decision, that the complaint alleges violations against a member state, and the applicant suffered a significant disadvantage. During the merits phase, both parties will have the opportunity to submit written

²⁴ *Id.*

²⁵ *Id.*; Rashida Manjoo U.N. Special Rapporteur on Violence Against Women, its Causes and Consequences, Statement Submitted at the 66th Session of the General Assembly, at 2 (Oct 10, 2011), http://www.un.org/womenwatch/daw/documents/ga66/RAPPORT_on_VAW.PDF [hereinafter *Statement of Rashida Manjoo*].

²⁶ *Statement of Rashida Manjoo, supra* note 25.

²⁷ *Id.*

²⁸ Background Information can be found at European Court of Human Rights, INTERNATIONAL JUSTICE RESOURCE CENTER, <https://ijrcenter.org/european-court-of-human-rights/>.

observations to the Court. After written observations are submitted, the Court then decides if it is appropriate to hold a public hearing in the case.²⁹ The Court will issue a judgment on the merits, after which the respondent state will have three months to request that the case be referred to the Grand Chamber for “fresh consideration.”³⁰ The judgment will become final at the expiration of the three-month period.³¹

2. *Types of Commonly Heard Cases*

Plaintiffs may only bring allegations that concern one or more of the rights defined in the European Convention on Human Rights (ECHR).³² A significant percentage of the violations the court has addressed concern Article 6, which addresses the right to a fair hearing.³³ The Court has found violations of the right to life and the prohibition against torture and inhuman or degrading treatment of the Convention in approximately 15% of cases.³⁴

a. **Right to a Fair Trial**

The right to a fair trial is defined in Article 6 of the ECHR as an entitlement to a “fair and public hearing, within a reasonable time, by an independent and impartial court.”³⁵ The Court has found violations of these rights in many cases of victims of extraordinary rendition and torture. For instance, in *Al-Nashiri v. Romania*, the Court found that the authorities who facilitated Mr. al-Nashiri’s transfer out of Romania for trial in the United States were likely aware of “widely expressed public concern” that a trial before the U.S. military commission would not culminate in a fair trial. Despite the “real and foreseeable risk” that Mr. al-Nashiri could face a “flagrant denial of justice,” Romania assisted his transfer from its territory, breaching Mr. al-Nashiri’s right to a fair trial.³⁶ As a part of the remedy awarded to Mr. al-Nashiri, the Court ordered that Romania seek assurances from the United States that Mr. al-Nashiri would not suffer the death penalty.³⁷

²⁹ The European Court of Human Rights in 50 Questions, THE COUNCIL OF EUROPE, https://www.echr.coe.int/Documents/50Questions_ENG.pdf. (noting that public hearings remain a rare occurrence).

³⁰ *Id.*

³¹ *Id.*

³² *European Court of Human Rights*, INTERNATIONAL JUSTICE RESOURCE CENTER, <https://ijrcenter.org/european-court-of-human-rights/> (last visited 30 Nov. 2018).

³³ *The ECHR in 50 Questions*, EUROPEAN COURT OF HUMAN RIGHTS, https://www.echr.coe.int/Documents/50Questions_ENG.pdf, (last visited 30 Nov. 2018).

³⁴ *Id.*

³⁵ See European Convention on Human Rights, § 1, art. 6; see also *Impact of the European Convention on Human Rights: Right to a Fair Trial*, COUNCIL OF EUROPE, <https://www.coe.int/en/web/impact-convention-human-rights/right-to-a-fair-trial> (last visited 30 Nov. 2018).

³⁶ Press Release: Romania committed several rights violations due to its complicity in CIA secret detainee program, EUROPEAN COURT OF HUMAN RIGHTS, ECHR 196 (2018), (discussing the Court’s judgement in *al-Nashiri vs. Romania*).

³⁷ See *id.* When the Court ordered this judgment, Mr. al-Nashiri’s case was still pending before the U.S. Military commission. His case is currently still pending. See also *USS Cole: Abd al-Rahim Hussein Muhammed Abdu Al-Nashiri (2)*, OFFICE OF MILITARY COMMISSIONS, <http://www.mc.mil/Cases.aspx?caseType=omc&status=1&id=34> (last visited 30 Nov. 2018).

b. Right to Life

Article 2 of the ECHR identifies and defines the right to life as the right to have one's life protected by law and not to be deprived of his life intentionally.³⁸ Findings of violations of this right are often identified in the Court's decisions concerning victims of extraordinary rendition and police brutality. In *al-Nashiri*, the Court found that Romania had allowed and assisted the CIA to transfer Mr. al-Nashiri to the U.S. military commission's jurisdiction, where he had been indicted and was on trial and facing the death penalty.³⁹ Romania had thus violated Mr. al-Nashiri's right to life by allowing him to be transferred to a jurisdiction where he could likely be deprived of his life.

c. Prohibition Against Torture or Degrading Treatment

Article 3 of the ECHR is a single sentence: "No one shall be subjected to torture or to inhuman or degrading treatment or punishment." Generally, the Court has defined this Article to mean that

The notion of inhuman treatment covers at least such treatment as deliberately causing severe suffering, mental or physical, which, in a particular situation, is unjustifiable. The word 'torture' is often used to describe inhuman treatment, which has a purpose, such as the obtaining of information or confession, or the infliction of punishment, and is generally an aggravated form of inhuman treatment. Treatment or punishment of an individual may be said to be degrading if it grossly humiliates him before others or drives him to act against his will or conscience.⁴⁰

Notably, the Court has ordered reparations in each case where the Court has found that a state has committed a violation of prohibition of torture against an individual.⁴¹

3. Reparations Generally in the European Court of Human Rights: Just Satisfaction

"Just satisfaction" is the European Court of Human Rights' method for offering reparations to injured parties for violations of the European Convention and comes from Article 41 of the Convention.⁴² "[T]he right to just satisfaction is not absolute and does not automatically follow after the Court finds violation of the Convention."⁴³ It is a discretionary power of the Court.

³⁸ See European Convention on Human Rights, § 1, art. 2. This right is conditional; one can be deprived of their life "in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law"—the ECHR does not prohibit the death penalty, but Article 1 of Protocol No. 6 to the Convention for the Protection of Human Rights does. See Protocol No. 6 to the Convention for the Protection of Human Rights and Fundamental Freedoms concerning the Abolition of the Death Penalty, art. 1.

³⁹ See *supra* note 36.

⁴⁰ UNHCR Manual on Refugee Protection and the ECHR Part 2.1 – Fact Sheet on Article 3, UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES, <https://www.unhcr.org/3ead2d262.pdf> (last visited 30 Nov. 2018) (citing Greek Case, Judgement of 18 November 1969, Yearbook of the European Convention on Human Rights, No. 12). This explanation of Article 3 has been cited and used in subsequent Court cases, as the UNHCR report highlights.

⁴¹ European Convention on Human Rights, § 1, art. 3.

⁴² Ivan Dimitrijević, Remedies for Human Rights Violations in Jurisprudence of the European Court of Human Rights and Their Execution by Member States (May, 2017) (unpublished LLM thesis, Tilburg University) (available at <http://arno.uvt.nl/show.cgi?fid=142890>); European Convention on Human Rights, art. 41, Nov. 4, 1950, E.T.S. no. 5 [hereinafter European Convention].

⁴³ See Dimitrijević, *supra* note 42, at 7.

Procedurally, Rule 60(1) of the Rules of the Court states that the applicant must make a claim for just satisfaction in order to obtain it.⁴⁴ Notably, the Court’s case law indicates that it is willing to waive this requirement when dealing with the prohibition of torture in Article 3.⁴⁵

4. Overview of the Types of Reparations the Court Awards

The following sections present the three main types of reparations or “just satisfaction” awarded by the Court: monetary reparations, individual measures, and a new procedure called pilot judgments, first seen in 2011.⁴⁶

a. Monetary Reparations

The first and most straightforward form of reparations awarded by the Court is monetary reparations. The Court awarded monetary just satisfaction for the first time in the 1971 case *Ringeisin v. Austria*.⁴⁷ Monetary just compensation can be for pecuniary damage (monetary harm), non-pecuniary damage (moral injury), and costs and expenses.⁴⁸ With both pecuniary and non-pecuniary damages, the applicant must establish a causal link between the violation and the material loss.⁴⁹ In some cases, the Court has indicated that the conduct of the applicant is relevant in deciding the amount of damages. In two cases involving suspected terrorists as the victim-applicants, the Court refused to award monetary reparations given in one case that the applicant was a convicted member of the Mafia, and in the other that police investigations revealed intent to plant a car bomb.⁵⁰ However, in a later case, the Court awarded monetary compensation to suspected terrorists as victims of unlawful detention because the involvement of the applicants in any terrorist activity could not be proven.⁵¹ However, the Court awarded a substantially lower amount given the suspected terrorism involvement.⁵² The Court’s jurisprudence suggests its willingness to take the victim’s conduct into consideration when awarding monetary reparations.

b. Individual Measures

The development of individual measures as a reparation was based on the principle of the need to make someone whole after a violation. The Court determined that more than monetary compensation was required because such an award by itself could not adequately restore the victim to his or her original position.⁵³ Thus, the Court began issuing judgments with individual measures:

⁴⁴ See European Convention, *supra* note 42.

⁴⁵ See *Borodin v. Russia*, App. No. 41867/04, Eur. Ct. H.R. (judgment, Nov. 6, 2012) (waiving the requirement of a specific claim and awarding just satisfaction).

⁴⁶ *Broniowski v. Poland*, App. No. 31445/96, Eur. Ct. H.R. (judgment, June 22, 2004).

⁴⁷ *Ringeisin v. Austria*, App. No. 2614/65, Eur. Ct. H.R. ¶ 107–09 (judgment, July 16, 1971) (awarding monetary damages for a detention beyond a “reasonable time” in violation of Article 5).

⁴⁸ See *Dimitrijević*, *supra* note 42, at 9–12.

⁴⁹ *Id.*

⁵⁰ *Messina v. Italy*, App. No. 25489/94, Eur. Ct. H.R. (judgment, Sept. 28, 2000); *McCann v. United Kingdom*, App. No. 18984/91, Eur. Ct. H.R. (judgment, Sept. 27, 1995).

⁵¹ *A. and Others v. United Kingdom*, 2009-II Eur. Ct. H.R. 137 (indicating that the Court might be willing to make its own determination of whether the applicant had any involvement in terrorist activity).

⁵² *Id.* at 241.

⁵³ See *Dimitrijević*, *supra* note 42, at 3.

non-monetary awards to the benefit of the applicant to put a stop to the current violation and to remedy the consequences of a violation.⁵⁴

The first case to include an award of individual measures was *Papamichalopoulos and Others v. Greece*, a 1995 property case which ordered the violating state to return the dispossessed land to the applicant.⁵⁵ Other individual measures awarded have been reopening of a criminal investigation or injunctive relief in arbitrary detention cases.⁵⁶ A “milestone”⁵⁷ case for individual measures was *Scozzari and Giunta* in 2000, which marked the first time the Court made reference to Article 46 of the Convention.⁵⁸ Article 46, section 1, stipulates that member states are bound by the Court’s judgments.⁵⁹ The Court explained that Article 46 imposes on the member state a legal obligation not only to pay the monetary reparations, but also to implement the appropriate general and individual measures “to put an end to the violation found by the Court and to redress so far as possible the effects.”⁶⁰

c. Measures for Similarly Situated Victims: Pilot Judgments

A new, innovative reparation method used by the Court is its pilot judgment procedure. A pilot judgment is a ruling by the Court that orders relief aimed not only at the specific applicant present in the case at bar, but also seeks to provide relief to a wider class of similarly situated victims.⁶¹ The pilot judgment was first awarded in a property case in 2011, *Broniowski v. Poland*.⁶² With its pilot judgment procedure, the Court seeks to address the structural problems underlying repetitive cases and allows the Court to impose an obligation on the member state to address these problems.⁶³ The Interlaken Conference calls on member states to cooperate with pilot judgments and implement the general measures indicated by the Court.⁶⁴

Pilot judgments are an important development in the European Human Rights system because they have the ability to offer more relief for *quantifiably more* victims and offer the opportunity for increased efficiency in the Court. One way pilot judgments increase efficiency is that pilot judgments decide on the procedure to be followed in the examination of all subsequent similar cases. Additionally, the Court will give the respondent State a time frame to develop an implementation plan. During this time frame, the Court adjourns the process of examining

⁵⁴ *Id.* at 18.

⁵⁵ *Papamichalopoulos v. Greece*, App. No. 144556/89, Eur. Ct. H.R. (judgment, June 24, 1993).

⁵⁶ *Piersack v. Belgium*, App. No. 8692/79, Eur. Ct. H.R. ¶ 11 (Art. 50 judgment, Oct. 26, 1984); *Ilascu v. Moldova*, App. No. 48787/99, Eur. Ct. H.R. ¶ 22 (judgment, July 8, 2004) (“Respondent States are to take all necessary measures to put an end to the arbitrary detention of the applicants still imprisoned and secure their immediate release.”); *Assanidze v. Georgia*, App. No. 71503/01, Eur. Ct. H.R. ¶ 203 (judgment, April 8, 2004) (“The respondent State must secure the applicant’s release at the earliest possible date.”).

⁵⁷ See Dimitrijević, *supra* note 42.

⁵⁸ *Scozzari v. Italy*, App. No. 39221/98, Eur. Ct. H.R. (judgment, July 13, 2000).

⁵⁹ See European Convention, *supra* note 42, art. 46.

⁶⁰ *Scozzari*, App. No. 39221/98 at ¶ 249.

⁶¹ See Dimitrijević, *supra* note 42, at 32.

⁶² *Broniowski*, App. No. 31445/96, Eur. Ct. H.R. at ¶ 1 (finding a systemic problem affecting a large number of people: those who repatriated after war claiming compensatory property, but there being insufficient land to meet these needs).

⁶³ See Dimitrijević, *supra* note 42, at 32.

⁶⁴ European Court of Human Rights, Interlaken Declaration, § D(7)(A), Feb. 19, 2010.

applications that fall within the scope of the pilot judgment. The Court can hear other cases during adjournment, increasing its efficiency.

5. Article 3: Prohibition Against Torture Reparation Schemes

Generally, cases that focus primarily on violations of the prohibition against torture also discuss violations of other articles of the ECHR, such as the right to life (Article 2) and the right to liberty and security of person (Article 5).

As developed in the Court's case law, Article 3 has both substantive and procedural limbs. A finding of a substantive violation is an indication that a member state or acting authority committed acts of torture. Under the substantive limb of Article 3, member states also have the obligation to take measures to ensure individuals in their jurisdiction are not subjected to torture.⁶⁵ Article 3 violations also include procedural violations. Victims of torture often face evidentiary hurdles with psychological ill-treatment or injuries that are not well-documented.⁶⁶ In *Assanov v. Bulgaria*, the Court used an "innovative" approach and created a procedural obligation under Article 3 to effectively investigate all allegations of ill-treatment or torture.⁶⁷ A procedural violation of Article 3 occurs when the respondent state does not provide adequate investigation to identify and potentially punish those responsible for the violation.

a. Non-Pecuniary Damages in Article 3 Torture Violations

In *Aksoy v Turkey*, an arbitrary detention and torture case, the Court found Turkey to have violated its obligations under Article 3 of the Convention.⁶⁸ As a result of the torture he faced, the victim lost the use of his arms and hands.⁶⁹ Based on the torture he experienced, the Court awarded the victim both pecuniary and non-pecuniary damages. The victim was awarded pecuniary damages in the amount of 16,635,000 Turkish lira (3,156,606.03 USD) for future economic loss consisting of medical expenses and was also awarded 50,000 pounds sterling (64,097.20 USD) for "moral damages," i.e. non-pecuniary damages.⁷⁰

In most of the cases brought by victims of the CIA extraordinary rendition and torture program, the Court awarded approximately 100,000 Euros (113,130.50 USD) in non-pecuniary damages.⁷¹ The likely explanation for the consistent award of 100,000 Euros for non-pecuniary just satisfaction is Article 41's mandate that the Court rule on an "equitable basis."⁷² In all of these

⁶⁵ *El Masri*, App. No. 39630/09 at ¶ 198.

⁶⁶ Janos Fiala-Butora, *Disabling Torture: the Obligation to Investigate Ill-Treatment of Persons with Disabilities*, 45 Colum. Human Rights. L. Rev. 214, 243–44 (2013).

⁶⁷ See Fiala-Butora, *supra* note 66, at 244; *Assanov v. Bulgaria*, App. No. 24760/94, Eur. Ct. H.R. ¶ 102 (judgment, Oct. 28, 1998).

⁶⁸ *Aksoy v. Turkey*, App. No. 21987/93, Eur. Ct. H.R. ¶ 64 (judgment, Dec. 18, 1996) (finding that the victim was subjected to a form of torture known as a "Palestinian hanging").

⁶⁹ *Id.* ¶ 15.

⁷⁰ *Id.* ¶¶ 110–13.

⁷¹ See *Al Nashiri v. Romania*, App. No. 33234/12, Eur. Ct. H.R. ¶ 750 (judgment, May 31, 2018); *Al-Nashiri v. Poland*, App. No. 28761/11, Eur. Ct. H.R. ¶ 595 (judgment, July 24, 2014); *Husayn (Abu Zubayday) v. Poland*, App. No. 7511/13, Eur. Ct. H.R. ¶ 567 (judgment, July 24, 2014).

⁷² *Al Nashiri v. Romania*, App. No. 33234/12, ¶ 750.

decisions, the Court reiterates that it must rule on an equitable basis, and cites back to previous, related cases for support. Thus, the first decision in *El Masri v. The Former Yugoslav Republic of Macedonia*, which awarded 60,000 Euros, informed the non-pecuniary damages to be awarded in all subsequent CIA torture cases.⁷³ The most recent CIA torture case, *Al-Nashiri v. Romania* in 2018, cites *El Masri*, *Al-Nashiri v. Poland*, and *Zubaydah v. Poland*.⁷⁴

b. Individual Measures in Article 3 Violations

Individual measures typically involve the ECtHR ordering the respondent state to undertake an effective investigation of the circumstances surrounding the extraordinary rendition and torture.⁷⁵ As further explained below, the Court has also ordered the respondent state to seek diplomatic assurances from a country where the victim faces a serious risk of ill-treatment.⁷⁶ The cases brought by Mr. Zubaydah and Mr. al-Nashiri best illustrate the ECtHR's approach in pursuing individual measures, and are discussed further below.⁷⁷

c. Pilot Judgments in Article 3 Violations

Most of the cases in which the Court has issued pilot judgments in Article 3 violations involve the overcrowding of prisons and the resulting inadequate living arrangements.⁷⁸ The Court decided to award pilot judgments in these cases given the amount of similar prior and pending cases before the Court and statistical data revealing a structural problem.⁷⁹ In these pilot judgments for prison overcrowding, the Court mandated two types of measures: general measures to remedy the structural problem and implementation of remedial measures.⁸⁰ The general measures require the respondent states to plan and implement measures to reduce overcrowding and improve the conditions of detention.⁸¹ The remedial measures require the respondent states to create a preventive remedy and a specific compensatory remedy to guarantee genuinely effective redress

⁷³ *El-Masri v. Former Yugoslav Republic of Macedonia*, App. No. 39630/09, Eur. Ct. H.R. ¶ 270 (judgment, Dec. 13, 2012).

⁷⁴ *Al Nashiri v. Romania*, App. No. 33234/12 at ¶ 750.

⁷⁵ See *infra*, notes 120–126 and accompanying text.

⁷⁶ *Id.*

⁷⁷ *Id.*

⁷⁸ See *Ananyev v. Russia*; *Rezmives v. Romania*, App. No. 61467/12, Eur. Ct. H.R. ¶ 100 (judgment, April 25, 2017); *Torregiani v. Italy*; *Varga v. Hungary*.

⁷⁹ See *Press Release: Russia required to take urgent action regarding inhuman and degrading conditions of pre-trial detention*, European Court of Human Rights (Jan. 10, 2012), <http://hudoc.echr.coe.int/sites/eng-press/pages/search.aspx?i=003-3800862-4354469> (pointing to over 80 prior ECtHR judgments and a further 250 pending cases for prison overcrowding); *Rezmives*, App. No. 61467/12, ¶ 100 (indicating that in October of 2015, the prison occupancy rate was 150.68%).

⁸⁰ See *Press Release: Russia required to take urgent action regarding inhuman and degrading conditions of pre-trial detention*, European Court of Human Rights (Jan. 10, 2012), <http://hudoc.echr.coe.int/sites/eng-press/pages/search.aspx?i=003-3800862-4354469>; *Rezmives*, App. No. 61467/12, ¶ 115–120, 125; *Press Release: The Court calls on Italy to resolve the structural problem of overcrowding in prisons, which is incompatible with the Convention*, EUROPEAN COURT OF HUMAN RIGHTS (Jan. 8, 2013), http://unipd-centrodirittiumani.it/public/docs/Chamber_judgment_Torregiani_and_Others_v_Italy_08012013.pdf; *Press Release: Hungary must take measures to improve the problem of widespread overcrowding in prisons*, EUROPEAN COURT OF HUMAN RIGHTS (March, 10, 2015), <http://hudoc.echr.coe.int/sites/eng-press/pages/search.aspx?i=003-5032416-6183669>.

⁸¹ *Id.*

for violations of the Convention that have already been found due to overcrowding or precarious material conditions.⁸²

6. *Applying the ECtHR's Reparations Principles*

Police brutality and extraordinary rendition cases are both examples of state-sanctioned torture. These cases best illustrate violations of the rights discussed above and reparations schemes for victims. Cases from these two categories may help U.S. courts and legislative bodies craft and modify their own approach towards providing reparations to victims who have suffered state-sanctioned torture.

a. **Police Brutality**

Police brutality is the use of excessive and/or unnecessary force by police when dealing with civilians.⁸³ Articles 2 and 3 of the European Convention on Human Rights combined impose three main requirements for police officers: (1) a prohibition on unlawful killing by State agents; (2) a duty to investigate suspicious deaths; and (3) a positive obligation, in certain circumstances, to take steps to prevent an avoidable loss of life.⁸⁴

i. **Sidiropoulos and Papakostas v. Greece**

Georgios Sidiropoulos and Ioannis Papakostas were Greek nationals who were arrested by the police on August 14th, 2002 for traffic offenses.⁸⁵ The two were taken to the police station for questioning. Sidiropoulos and Papakostas later complained of the interrogating officer's behavior, claiming that during the questioning, the officer had applied a "black device emitting an electric current to different parts of their bodies."⁸⁶ Doctors were able identify and report that both Sidiropoulos and Papakostas suffered injuries resulting from the electric shocks.⁸⁷

Following the complaint, a brief administrative investigation found that "no suspicious objects had been found at the police officer's home."⁸⁸ The officer did, however, give the authorities a "black portable transceiver" he said he had with him when he questioned Papakostas.⁸⁹ The local court held that the sanctions imposed on the police officer for torturing Sidiropoulos and Papakostas were disproportionate to the seriousness of the treatment inflicted on the applicants. It further held that the Greek criminal and disciplinary system had "lacked any deterrent effect capable of

⁸² *Id.*

⁸³ Jim Murdoch and Ralph Roche, *The European Convention on Human Rights and Policing: A handbook for police officers and other law enforcement*, COUNCIL OF EUROPE (Dec. 2013), [officialshttps://www.echr.coe.int/Documents/Handbook_European_Convention_Police_ENG.pdf](https://www.echr.coe.int/Documents/Handbook_European_Convention_Police_ENG.pdf).

⁸⁴ *See id.*; *see also* European Convention on Human Rights, § 1, art. 2-3.

⁸⁵ Press Release: Sanction imposed on police officer for torture was disproportionately lenient, European Court of Human Rights, ECHR 030 (2018) (discussing the Court's judgement in *Sidiropoulos and Papakostas v. Greece*).

⁸⁶ *Id.*

⁸⁷ *Id.*

⁸⁸ *Id.*

⁸⁹ *Id.*

ensuring the effective prevention of illegal acts such as torture.” The officer was ultimately fined 100 euros (\$113.92 USD) for using a taser without prior authorization.⁹⁰

In criminal proceedings against the police officer, the Athens Assize Court found the officer guilty of torturing people in the course of his duties. Subsequently, the Athens Criminal Court of Appeal upheld the first-instance judgment and commuted the officer’s five-year imprisonment to a monetary penalty of five euros (\$5.70USD) per day of detention, payable in 36 monthly installments over three years.⁹¹ On appeal, the appellate court found that the “pecuniary sanction was sufficient to deter [the police officer] from committing other offences.”⁹² Finally, upon his own request, the police officer was removed from the police force; he was then promoted from master sergeant to warrant officer.⁹³

In response to these outcomes, Sidiropoulos and Papakostas complained about the sanctions imposed on the police officer, the length of the criminal proceedings and the lack of an effective remedy and asserted that these violated the European Convention on Human Rights.⁹⁴ They brought their case to be reviewed by the European Court on Human Rights.

The Court found that the Greek criminal and disciplinary systems were incapable of having a deterrent effect to effectively prevent torture.⁹⁵ The Court also found that the outcome of the domestic proceedings against the police officer did not redress his breach of Article 3 of the Convention: the leniency of the criminal sanction was disproportionate to the severity of the treatment inflicted on Sidiropoulos and Papakostas.⁹⁶ The Court also found that the length of the criminal proceedings had been unreasonably long, lasting eight years.⁹⁷ Finally, the court found that Sidiropoulos and Papakostas could not obtain a domestic remedy to redress for their complaint.⁹⁸

In addition to these findings, the Court held that Greece was to pay Sidiropoulos and Papakostas each 26,000 euros (\$29,618 USD) in non-pecuniary damages and 2,000 euros (\$2,278 USD) jointly for costs and expenses.⁹⁹ However, it is unclear whether Greece complied with the Court’s orders.

ii. **Mustafa Hajili v. Azerbaijan**

⁹⁰ *Id.*

⁹¹ *See Press Release: Sanction imposed on police officer for torture was disproportionately lenient*, European Court of Human Rights, ECHR 030 (2018) (discussing the Court’s judgement in Sidiropoulos and *Papakostas v. Greece*).

⁹² *Id.*

⁹³ *Id.*

⁹⁴ *See id.*

⁹⁵ *See Id.*

⁹⁶ *See id.*

⁹⁷ *Press Release: Sanction imposed on police officer for torture was disproportionately lenient*, EUROPEAN COURT OF HUMAN RIGHTS, ECHR 030 (2018) (discussing the Court’s judgement in *Sidiropoulos and Papakostas v. Greece*).

⁹⁸ *Id.*

⁹⁹ *Id.*

Mustafa Hajili, was editor-in-chief of a newspaper in Azerbaijan.¹⁰⁰ He alleged that, after attempting to attend a protest, he had been arrested by police and assaulted by officers while in custody.¹⁰¹ Mr. Hajili was taken to a police station and placed in the temporary detention center along with other arrested people.¹⁰² The deputy head of the police station then entered the yard accompanied by two men.¹⁰³ Mr. Hajili introduced himself as a journalist and asked the deputy head why he had been arrested.¹⁰⁴ Mr. Hajili claimed that the two men accompanying the deputy head then held his arms, while the deputy head punched and kicked him in different parts of his body.¹⁰⁵

Mr. Hajili subsequently filed a criminal complaint about the incident with the prosecutor's office.¹⁰⁶ The investigator obtained evidence from Mr. Hajili and two witnesses who had been detained alongside Mr. Hajili, who corroborated Mr. Hajili's account.¹⁰⁷ The investigator also questioned the deputy head and four other police officers, who denied that such an assault had occurred.¹⁰⁸ A forensic expert examined Mr. Hajili, finding injuries that corresponded with the alleged date of the incident.¹⁰⁹

The district prosecutor's office refused to initiate criminal proceedings.¹¹⁰ Mr. Hajili filed a complaint about this decision, complaining that the prosecutor had neither consulted witness evidence or forensic report nor explained how Mr. Hajili's injuries could have been caused.¹¹¹

Mr. Hajili's complaint was dismissed by the district court, which found that the prosecutor's decision had been lawful and properly substantiated.¹¹² The court also found that, although there was a bruise on Mr. Hajili's body, there was no evidence that this had been caused by the deputy head or any other police officers without mentioning the witness statements that supported Mr. Hajili's allegations.¹¹³

¹⁰⁰ *Press Release: Police assault on the editor of Demokrat newspaper was a violation of the European Convention on Human Rights*, EUROPEAN COURT OF HUMAN RIGHTS, ECHR 384 (2016) (discussing the Court's judgement in *Mustafa Hajili v. Azerbaijan*).

¹⁰¹ *Id.*

¹⁰² *Id.*

¹⁰³ *Id.*

¹⁰⁴ *Id.*

¹⁰⁵ *Press Release: Police assault on the editor of Demokrat newspaper was a violation of the European Convention on Human Rights*, EUROPEAN COURT OF HUMAN RIGHTS, ECHR 384 (2016) (discussing the Court's judgement in *Mustafa Hajili v. Azerbaijan*).

¹⁰⁶ *Id.*

¹⁰⁷ *Id.*

¹⁰⁸ *Id.*

¹⁰⁹ *See id.*

¹¹⁰ *Id.*

¹¹¹ *See Press Release: Police assault on the editor of Demokrat newspaper was a violation of the European Convention on Human Rights*, EUROPEAN COURT OF HUMAN RIGHTS, ECHR 384 (2016) (discussing the Court's judgement in *Mustafa Hajili v. Azerbaijan*).

¹¹² *Id.*

¹¹³ *Id.*

Mr. Hajili tried to appeal the decision, affirming his previous complaints, but his appeal was dismissed.¹¹⁴ The Azerbaijani government persisted that the assault did not take place. As a result, Mr. Hajili brought his case to the European Court of Human Rights.

The Court held that Mr. Hajili had produced “sufficiently strong evidence” that he had been assaulted in the police station, corroborated with witness, forensic and expert accounts.¹¹⁵ The Court also found that the Azerbaijani government, investigating authorities, and domestic courts “all failed to give a convincing explanation as to how the injury had been caused, if not by the police officers.”¹¹⁶ Finally, the Court identified that although Mr. Hajili’s injuries had not required medical attention, the injuries must have caused Mr. Hajili “physical pain and suffering, in addition to mental suffering and a loss of human dignity.”¹¹⁷ Thus, the Court held that the assaults and mistreatment Mr. Hajili suffered violated the prohibition against torture.¹¹⁸

In addition to these findings, the Court held that Azerbaijan was to pay the applicant 10,000 euros (\$11,402 USD) in nonpecuniary damages, and 3,000 (\$3,421 USD) for costs and expenses.¹¹⁹ However, as with the prior case, it is unclear whether Azerbaijan complied with the Court’s orders.

7. *Extraordinary Rendition and Torture*

The facts in the cases brought by Mr. Zubaydah and Mr. al-Nashiri discussed below parallel cases brought against the United States. Furthermore, both plaintiffs are currently in American custody at Guantánamo Bay Detention Center. As such, the reparations ordered in these cases may be helpful guidance for U.S. courts to consider. In both of the cases discussed below, it is also important to note that part of the victims’ renditions occurred on Aero aircraft that originated from North Carolina.

As explained above, in *Zubaydah v. Lithuania* and *Al Nashiri v. Romania*, the Court awarded similar individual measures to victims of the CIA extraordinary rendition and torture program.¹²⁰ In both cases, the Court found Lithuania and Romania to have violated Article 3’s prohibition against torture.¹²¹ A violation of the procedural limb of Article 3 in both cases necessitated an obligation of the state to conduct an effective and efficient investigation to provide a full account of the victim’s rendition and treatment.¹²² The goal of these investigations would be to enable identification and punishment, if appropriate, of those responsible.¹²³ It is important to recognize that in both cases, the Court would not mandate the detailed, prescriptive injunctions of the kind requested by the applicants and therefore dismissed these specific requests as adequately addressed

¹¹⁴ *Id.*

¹¹⁵ *Id.*

¹¹⁶ See Press Release: *Police assault on the editor of Demokrat newspaper was a violation of the European Convention on Human Rights*, EUROPEAN COURT OF HUMAN RIGHTS, ECHR 384 (2016) (discussing the Court’s judgement in *Mustafa Hajili v. Azerbaijan*).

¹¹⁷ *Id.*

¹¹⁸ *Id.*

¹¹⁹ *Id.*

¹²⁰ See *Zubaydah v. Lithuania*, App. No. 46454/11, Eur. Ct. H.R. (judgment, May 31, 2018); *Al Nashiri v. Romania*, App. No. 33234/12, Eur. Ct. H.R. (judgment, May 31, 2018).

¹²¹ *Zubaydah*, ¶ 622; *Al Nashiri*, ¶ 656,679.

¹²² *Zubaydah*, ¶ 683; *Al Nashiri*, ¶ 742.

¹²³ *Id.*; *Id.*

by its findings of violations of the Convention.¹²⁴ Additionally, the Court in *Al Nashiri v. Poland* utilized diplomatic assurances as an individual measure and explained that they are especially applicable in extraordinary rendition cases, given that the victim is exposed to a serious risk of ill-treatment or the death penalty in another country and that these renditions lack any process or protection of law.¹²⁵ The Court here required Poland to take all possible steps to obtain diplomatic assurances from the United States that the U.S. will not subject the individual to torture or serious ill-treatment.¹²⁶

C. THE INTER-AMERICAN HUMAN RIGHTS SYSTEM

1. Background Information

In 1948, thirty-five American nations formed the Organization of American States (OAS) under its founding document, the OAS Charter.¹²⁷ The Charter sets forth the region's guiding human rights principles, including the exercise of representative democracy, elimination of extreme poverty, and recognition of individual rights without discrimination on the basis of race, nationality, religion, or sex.¹²⁸ Numerous regional instruments further elaborate on the Charter's human rights mandates, such as the American Declaration on the Rights and Duties of Man¹²⁹ and the American Convention on Human Rights.¹³⁰ These instruments establish the two-organ Inter-American Human Rights System, consisting of the Inter-American Commission on Human Rights (the Commission)¹³¹ and the Inter-American Court of Human Rights (the Court).¹³² Individuals or groups seeking to use the Inter-American System to vindicate human rights violations committed

¹²⁴ *Zubaydah*, ¶ 684; *Al Nashiri*, ¶ 743. See also *Husayn (Abu Zubaydah) v. Poland*, App. No. 7511/13, Eur. Ct. H.R. ¶ 568 (judgment, July 24, 2014).

¹²⁵ *Al-Nashiri v. Poland*, App. No. 28761/11, ¶ 588–89. While diplomatic assurances are frequently criticized for lacking enforcement power, these arguments will not be addressed here.

¹²⁶ *Id.* ¶ 587.

¹²⁷ Organization of American States Charter, *adopted* Apr. 30, 1948, 2 U.S.T. 2394, O.A.S.T.S. Nos. 1-C and 61 (entered into force Dec. 13, 1951), http://www.oas.org/en/sla/dil/inter_american_treaties_A-41_charter_OAS.asp [hereinafter OAS Charter].

¹²⁸ *Id.* art. 2.

¹²⁹ Organization of American States, American Declaration on the Rights and Duties of Man, O.A.S. Res. XXX, adopted by the Ninth International Conference of American States May 2, 1948, OEA/Ser.L./V/II.82 doc. 6 rev. 1 at 17 (1992), <https://www.cidh.oas.org/basicos/english/basic2.american%20declaration.htm> [hereinafter Declaration].

¹³⁰ Organization of American States, American Convention on Human Rights, opened for signature Nov. 22, 1969, art. 1, O.A.S.T.S. No. 36, 1144 U.N.T.S. 123 (entered into force July 18, 1978), OEA/Ser.L.V/II.82 doc. 6 rev. 1 at 25 (1992), <https://www.cidh.oas.org/basicos/english/basic3.american%20convention.htm> [hereinafter Convention]. Other regional instruments include, among others, the Inter-American Convention to Prevent and Punish Torture; the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women; and the Inter-American Convention on Forced Disappearance of Persons.

¹³¹ The OAS created the Commission in 1959 “to promote the observance and defense of human rights” pursuant to the Charter and Statute of the Inter-American Commission. OAS Charter, *supra* note 127, at art. 106; Statute of the Inter-American Commission on Human Rights art. 1(1), O.A.S. Res. 447 (IX-0/79), OEA/Ser.P./IX.0.2/80, vol. 1 at 88 (1979), <http://www.oas.org/en/iachr/mandate/Basics/statuteiachr.asp> [hereinafter Commission Statute].

¹³² The Convention and the Statute of the Inter-American Court of Human Rights created this judicial institution in 1979. Convention, *supra* note 130, at art. 62.3; Statute of the Inter-American Court of Human Rights art. 1 Oct. 1979, O.A.S. Res. 448 (IX-0/79), OEA/Ser.P./IX.0.2/80, vol. 1 at 98 (1979) (entered into force Jan. 1, 1989), <http://www.oas.org/en/iachr/mandate/Basics/statutecourt.asp>, [hereinafter Court Statute].

by an OAS member state must initially file a petition with the Commission, which will evaluate whether the request is admissible, and, if so, determine whether the state committed human rights violations and recommend reparations.¹³³ Once the Commission-level proceedings end, the Commission or the state party may submit the case to the Court for further adjudication, including consideration of the reparations issue.¹³⁴

2. Textual Standards for Reparations in the Inter-American System

The Commission and the Court have the authority and duty to recommend (Commission) and order (Court) that reparations be made by state human rights violators to victims of their abuses. Table 1 below features the treaties and other instruments in the Inter-American System that contain language bearing on the textual standards for reparations. Some of the instruments do not contain express reference to the duty to provide reparations while others express the obligation in general terms, rather than articulating the specific form reparations should take. The task of determining what particular reparations should look like has been taken up by the Commission and Court as they have conducted case-by-case adjudications.

Table 1

Treaty or Protocol	Description of Instrument and Language that Addresses Reparations	U.S. Position
Charter of the Organization of American States	<p>The OAS Charter highlights human rights principles; however, it does not specifically address reparations.</p> <p>Nonetheless, it creates the Inter-American Commission on Human Rights and describes its “principal function [as] . . . promot[ing] the observance and protection of human rights”¹³⁵ By establishing an entity to carry out this function, the Charter indirectly provides for reparations by instituting a mechanism through which reparations may be realized.</p>	The U.S. ratified the OAS Charter, and it entered into force on Dec. 13, 1951.
American Declaration on the Rights and Duties of Man	The Declaration enumerates a wide spectrum of civil, political, economic, social, and cultural rights as well as states’ duties to recognize and protect those rights. ¹³⁶	As an OAS member state, the U.S. is bound by the Declaration through its ratification of the Charter. ¹³⁷

¹³³ Commission Statute, *supra* note 131, at arts. 18–20; Convention, *supra* note 130, at art. 44–51.

¹³⁴ Court Statute, *supra* note 132, at art. 2; Convention, *supra* note 130, at art. 61.

¹³⁵ OAS Charter, *supra* note 127, at art. 106.

¹³⁶ Relevant articles to violations committed by the CIA’s Extraordinary Rendition and Torture Program include Article I (right to life, liberty, and personal security) and Art. XXV (right of protection from arbitrary arrest). Declaration, *supra* note 129.

¹³⁷ The Declaration, along with the OAS Charter, are key tools for holding the United States accountable for its human rights violations, considering that it has not ratified the Convention or other regional treaties, and therefore is not bound by them. Caroline Bettinger-López, *The Inter-American Human Rights System: A Primer*, 42 CLEARINGHOUSE REV. J. OF POVERTY L. & POL’Y 581, 583 (2009).

	Although it does not expressly oblige states to provide reparations, on the theory that where there is a right, there is a remedy, those seeking redress may argue that a violation of one of the rights implicitly gives rise to reparations.	
American Convention on Human Rights	The Convention codifies the OAS Charter. It largely addresses civil and political rights and creates the Inter-American Court of Human Rights. Article 63(1) provides: “If the Court finds that there has been a violation of a right or freedom protected by this Convention, the Court shall rule that the injured party be ensured the enjoyment of his right or freedom that was violated. It shall also rule, if appropriate, that the consequences of the measure or the situation that constituted the breach of such right or freedom be remedied and that fair compensation be paid to the injured party. ” ¹³⁸	The U.S. has only signed but not ratified the Convention. ¹³⁹
Inter-American Convention to Prevent and Punish Torture (IACPPT) ¹⁴⁰	Article 6 sets forth the state parties’ obligation to “take effective measures to prevent and punish torture.” - Specifically, all acts of torture/attempts to commit torture must be criminal offenses with severe penalties under States Parties’ law. Article 7 provides that state officials responsible for depriving people of their liberty must receive training that emphasizes the prohibition against the use of torture.	The U.S. has not ratified the IACPPT nor any of the Inter-American System’s other additional treaties and normative instruments. ¹⁴²

¹³⁸ Convention, *supra* note 4, art. 63(1) (emphasis added).

¹³⁹ As a result, it is generally maintained that the Court does not have jurisdiction to render judgments against the U.S. Notwithstanding, the Convention, at the very least, serves a persuasive function to the Commission as textual evidence of a regional standard. There may also be some arguments that the Convention serves as more than just persuasive authority. Given that the U.S. has signed (although not ratified) the Convention, under the Vienna Convention on the Law of Treaties, the U.S. is obligated to take no action that would be contrary to the provisions of the Convention. Vienna Convention on the Law of Treaties, 1155 UNTS 331, art. 18, *adopted* May 23, 1969 (entered into force Jan. 27, 1980). In addition, some have contended that the OAS requires member states to adhere to human rights obligations—including those in the Convention—even if they did not ratify the Convention. *See Victims of the Tugboat "13 de Marzo" v. Cuba*, Case 11.436, Inter-Am. C.H.R., Report No. 47/96, OEA/Ser.L/V/II.95 doc. 7 rev. at 127, ¶¶ 77-78 (1997); *Armando Alejandro Jr., Carlos Costa, Mario de la Pena y Pablo Morales v. Republica de Cuba*, Case 11.589, Inter-Am. C.H.R., Report No. 86/99, OEA/Ser.L/V/II.106 doc. 3 rev. at 586 ¶ 39 (1999).

¹⁴⁰ Organization of American States, Inter-American Convention to Prevent and Punish Torture, *adopted* Dec. 9, 1985 (entered into force Feb. 28, 1987), <http://www.oas.org/juridico/english/treaties/a-51.html>.

¹⁴² Notwithstanding, there may be an argument that the additional treaties and protocols are binding on the U.S. to the extent that language within them reflects the language in the Declaration.

	Article 9 addresses the state parties' duty to institute legal mechanisms that will guarantee "suitable compensation for victims of torture." ¹⁴¹	
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3. *Overview of Reparations Provided in the Inter-American System*

In the early days of the Inter-American System, beginning with its first reparations order in 1989, the Court provided individuals and groups material and/or moral damages under a theory of making the victim "whole" again (*restitutio in integrum*).¹⁴³ As the System's reparations jurisprudence developed, the Court began to order more holistic reparations schemes to include structural or systematic reparations to guarantee the violated right, such as amending legislation or providing human rights training to state employees. Relative to other human rights bodies, such as the European Court of Human Rights, the Inter-American System has developed a creative range of reparations that the Commission and Court draw upon and tailor to a specific victim or group of victims' requests. Reparation recommendations or orders typically include a monetary component for pecuniary and non-pecuniary damages to be paid to the victim or the victim's next of kin; an investigation to identify, prosecute, and punish those responsible for the violation; a public recognition of wrongdoing and apology by the state; legislative action; medical and psychological treatment for the victim and victim's family members; publication of the Commission or Court's report or order in a newspaper or gazette of national circulation; and a symbolic gesture of remembrance by naming a public space, such as a street, park, or school after the victim.

4. *Reparations in the Inter-American Commission on Human Rights*

a. **Commission Mechanisms for Providing Reparations**

The Commission primarily provides reparations through merits reports and "friendly" settlement agreements. Merits reports are similar to judicial opinions in that they contain factual findings, legal conclusions, and remedies recommendations. Friendly settlement agreements are contracts between the victim and the state of agreed-upon reparations. In addition to its roles as "arbiter" and "adjudicator" through merits reports and settlements, the Commission also acts as a "promoter" of human rights by publishing country/region/issue-specific reports after carrying out fact-finding missions on certain alleged human rights abuses.¹⁴⁴ As the OAS's official human rights promoter, the Commission holds thematic or general hearings during which it hears testimony from victims or advocates about systematic human rights violations. Another reparative mechanism the Commission may employ is its power to seek precautionary measures from the Court in a particular case to prevent irreparable harm to the victim. The sections below feature

¹⁴¹ Although Articles 6 and 7 serve as preventative measures to protect against torture as opposed to retrospective redress, the Commission and Court have recommended or ordered governments to amend legislation concerning criminal offenses and punishments of perpetrators of torture and to provide human rights training to public officials. *See* Part V., *infra*. As such, they serve as standards to which the region should conform its legislation and practices.

¹⁴³ *Reparations in the Inter-American System: A Comparative Approach*, 56 AM. U. L. REV. 1375, 1383–84 (2007).

¹⁴⁴ Bettinger-López, *supra* note 137.

examples of, first, the Commission's provision of reparations through friendly settlement and, second, the Court's reparations jurisprudence.

b. Reparations Through Friendly Settlement: *Laparra-Martinez v. Mexico*

In 1999, the Judicial Police of the State of Chiapas arbitrarily arrested and tortured Ananías Laparra-Martinez, his wife, and two minor children to extract a confession that Mr. Laparra had committed a certain aggravated homicide.¹⁴⁵ While detained, Mr. Laparra was subjected to punches, kicks, stretching apart of limbs, prolonged immobility, asphyxiation, trauma to genitals, nakedness, verbal abuse, and forced witnessing of his children's torture.¹⁴⁶ Thereafter, Mr. Laparra was imprisoned for twelve years.¹⁴⁷ Mr. Laparra's wife, who was unlawfully detained on two occasions and held for hours at a time, was coerced into making and signing a false statement against her husband.¹⁴⁸ Mr. Laparra's daughter was threatened with rape by various government officials, and his son was subjected to asphyxiation by drowning, insertion of liquid through the nose, and blunt force trauma to various body parts.¹⁴⁹ Both children were also coerced into signing statements which incriminated their father.¹⁵⁰ Through the Commission process, which culminated in a friendly settlement, the parties agreed to a comprehensive scheme of reparations.

i. Restitution: Non-Pecuniary and Pecuniary Measures

Obtaining a declaration of innocence and restoring his and his family's good name was one of Mr. Laparra's highest restitution priorities.¹⁵¹ To that end, various governmental entities of the State of Chiapas agreed to undertake the necessary administrative and judicial procedures to render Mr. Laparra's conviction null and void; expunge any criminal record related to the conviction; and publicly recognize Mr. Laparra's innocence.¹⁵² During the public act of recognition, the State was to acknowledge its wrongdoing and offer an apology to the victims in the presence of the State of Chiapas Executive and Judicial Branch officials along with representatives from the Ministry of the Interior and the Ministry of Foreign Affairs.¹⁵³ The public acknowledgement was to be broadcast locally and nationally as well as published on the local and national governments' official websites.¹⁵⁴ Lastly, Mexico agreed to publish selections from the IACHR report in the Official Gazette of the Federation, the Official Gazette of the State of Chiapas, and to post the IACHR report on various governmental websites for one year.¹⁵⁵

¹⁴⁵ Laparra-Martinez v. Mexico, Petition 1171-09, Friendly Settlement, Report No. 15/16, 4. (2016).

¹⁴⁶ *Id.*

¹⁴⁷ *Id.* at 4–5.

¹⁴⁸ *Id.* at 6.

¹⁴⁹ *Id.*

¹⁵⁰ *Id.*

¹⁵¹ *Id.* at 10.

¹⁵² *Id.*

¹⁵³ *Id.* at 12.

¹⁵⁴ *Id.*

¹⁵⁵ *Id.*

The State also agreed to fund various services and opportunities for the victims, including medical care, psychological treatment, and the cost of prescription medications.¹⁵⁶ With respect to Mr. Laparra’s son, who had developed a substance abuse problem, the State agreed to make treatment available, should Mr. Laparra’s son choose to accept such an intervention.¹⁵⁷ Lastly, the State promised to provide Mr. Laparra’s children with scholarships to enable them to complete the requisite secondary studies for a university or technical degree and to pursue higher education.¹⁵⁸

In terms of monetary relief, Mexico agreed to compensate the victims for “impairment of their life plans,” such as the loss of past and future income, the cost of housing, and the attorneys’ expenses in handling the litigation.¹⁵⁹

ii. Measures for Non-Repetition

The State agreed to initiate an investigation to identify those responsible for the human rights violations and to impose the appropriate punishment for the crime of torture, including—where necessary—to remove doctrines of impunity that inhibit such prosecutions.¹⁶⁰ Mexico also agreed to provide a training program to various governmental entities of the State of Chiapas, such as the Judiciary, the Office of the Attorney General, and the Public Defender Office on such topics as prerequisites for making an arrest, the need to investigate complaints of torture by those facing criminal charges, and the invalidity of evidence obtained through torture.¹⁶¹ Lastly, the State agreed to promote legislative debate regarding human rights violations as an impetus for the recognition of innocence.¹⁶²

5. Reparations Ordered by the Inter-American Court of Human Rights

The following cases were selected from the body of the Court’s jurisprudence based on their similarities to the incidents of extraordinary rendition and torture suffered by the victims discussed in this paper.

a. Landaeta Mejías Brothers et al. v. Venezuela (2014)

On November 17, 1996, police officers shot Igmarr Landaeta in the back while Igmarr was walking down the street.¹⁶³ The officers approached Igmarr after the initial shot, and when Igmarr began pleading for his life, the officers shot him again.¹⁶⁴ Two days later, a police officer entered the

¹⁵⁶ *Id.* at 11. The parties agreed to keep the amount of the non-pecuniary compensation confidential purportedly for the victims’ safety. *Id.*

¹⁵⁷ *Id.*

¹⁵⁸ *Id.*

¹⁵⁹ *Id.* at 12.

¹⁶⁰ *Id.* at 13.

¹⁶¹ *Id.* at 13–14.

¹⁶² *Id.* at 14.

¹⁶³ See *Landaeta Mejías Brothers et al. v. Venezuela*, Admissibility Report, Report No. 22/09, Inter-Am.Ct.H.R., Case No. 12.606, ¶ 16 (Mar. 20 2009) [hereinafter *Landaeta Mejías Brothers Admissibility Report*].

¹⁶⁴ See *Landaeta Mejías Brothers et al. v. Venezuela*, Preliminary Objections, Merits, Reparations, and Costs, Judgment, Inter-Am.Ct.H.R. (ser. C) No. 281, 19-20 (Aug. 27, 2014) [hereinafter *Landaeta Mejías Brothers Judgment*].

home of María Magdalena Mejías, Igmár’s mother, and threatened to kill Eduardo, Igmár’s brother.¹⁶⁵ Local police officers continued to harass Eduardo until he was detained in December 1996.¹⁶⁶ After a lengthy delay, the police began to transfer Eduardo to a facility for minors, but while in the process of transferring him, an unmarked car hit the police car.¹⁶⁷ After the crash, unknown individuals disarmed the police officers, and Eduardo was killed in the chaos.¹⁶⁸ All four police officers in the vehicle managed to escape the “attack.”¹⁶⁹

i. The Case Before the Commission

In 2012, the Commission approved the Merits Report for the Landaeta brothers’ cases together.¹⁷⁰ The Commission found that Venezuela violated Article 4 (Right to Life), Article 5 (Right to Humane Treatment), Article 7 (Right to Personal Liberty), and Article 19 (Rights of the Child) of the Convention in the Landaeta’s case.¹⁷¹ Finally, the Commission found that Venezuela violated Article 5 (Right to Humane Treatment), Article 8 (Right to a Fair Trial), and Article 25 (Right to Judicial Protection) of the Convention for the treatment of the Landaeta brothers’ next of kin.¹⁷² The Commission ordered Venezuela to conduct investigations into the Landaeta brothers’ deaths, provide pecuniary and non-pecuniary damages to their next of kin, and establish procedures to prevent repetition of the atrocities.¹⁷³

ii. Court-Ordered Reparations

In 2012, the Commission submitted the case to the Court.¹⁷⁴ The Court found the same violations of the Convention as the Commission in the killing of Igmár and Eduardo and suffering of the Landaeta family.¹⁷⁵ The Court determined that Venezuela violated Article 5 because of the inexplicable injuries and bullet wounds found on the body of Eduardo indicating mistreatment and violence prior to his death.¹⁷⁶ The Court found that the Landaeta family suffered an Article 5 violation due to the torture committed against their loved ones and the lack of investigation by Venezuela following the murders of their sons.¹⁷⁷

In terms of reparations, the Court first ordered Venezuela to re-open the investigation into Igmár’s murder “in order to clarify the facts and, as appropriate, determine the responsibilities for the arbitrary deprivation of life.”¹⁷⁸ Second, the Court ordered the investigation into the arbitrary deprivation of the life of Eduardo to identify, prosecute, and punish those responsible.¹⁷⁹ Third,

¹⁶⁵ *See id.* at 18-19.

¹⁶⁶ *See id.* at 19.

¹⁶⁷ *See id.* at 22.

¹⁶⁸ *See id.*

¹⁶⁹ *Id.* at 27-28.

¹⁷⁰ Landaeta Mejías Brothers Judgment *supra* note 164, at 27-8.

¹⁷¹ *Id.* at 5.

¹⁷² *Id.*

¹⁷³ *Id.* at 5.

¹⁷⁴ *Id.*

¹⁷⁵ *Id.* at 94.

¹⁷⁶ *See* Landaeta Mejías Brothers Judgment *supra* note 164, at 53.

¹⁷⁷ *See id.* at 80.

¹⁷⁸ *Id.* at 84.

¹⁷⁹ *Id.* at 84-5.

the Court ordered free psychological treatment and medical care to the family members of Eduardo and Igmarr.¹⁸⁰ Fourth, the Court ordered the publication of a summary of the judgment in a national newspaper and the publication of the entire judgment on an official State website.¹⁸¹ Fifth, the Court acknowledged the progress Venezuela made toward implementing measures relating to the use of force and accountability through laws, task forces, training, and the development and distribution of skills manuals for police reform.¹⁸² But the Court emphasized that Venezuela still needed to increase monitoring of police agents to meet international standards, which would be considered a Guarantee of Non-Repetition.¹⁸³ Sixth, at the request of the petitioners, the Court ordered Venezuela to perform a public act to acknowledge responsibility and publicly apologize for the deaths of Igmarr and Eduardo.¹⁸⁴ Finally, the Court ordered Venezuela to pay \$360,000 in pecuniary damages; \$270,000 in non-pecuniary damages; and \$500 for Igmarr and Eduardo's funerals to the Landaeta family.¹⁸⁵

In 2016, the Court released a report on Venezuela's compliance with the ordered reparations, noting that Venezuela failed to comply with all of the reparations ordered in the judgment.¹⁸⁶

b. Galindo Cárdenas et al v. Perú (2015)

In 1994, while working as a provisional magistrate judge, Luis Galindo Cárdenas was accused of being a member of the communist organization *Sendero Luminoso* (Shining Path).¹⁸⁷ Luis went to the Peruvian Office of Counter-Terrorism to clear his name, and later signed a declaration in which he repented and applied for "benefits" under the Repentance Law.¹⁸⁸ The Repentance Law allowed for punishment for terrorism to be reduced under certain circumstances, if the *arrepentido* (person repenting) signed a declaration.¹⁸⁹

After signing the declaration, Luis was detained at a military base and was forced to write a letter declaring his resignation from his position as a judge.¹⁹⁰ After 31 days of detention, Luis was released when the provincial prosecutor determined that charges could not be brought against him for his alleged involvement with *Sendero Luminoso*.¹⁹¹ Luis revealed that he was subjected to psychological torture and isolation while he was detained.¹⁹²

¹⁸⁰ *See id.* at 85.

¹⁸¹ *See* Landaeta Mejías Brothers Judgment *supra* note 164, 85-6.

¹⁸² *See id.* at 87.

¹⁸³ *See id.* at 87-8.

¹⁸⁴ *See id.* at 86.

¹⁸⁵ *See id.* at 91.

¹⁸⁶ Landaeta Mejías Brothers et al. v. Venezuela, Monitoring Compliance with Judgment, Order of the Court, (Inter-Am. Ct. H.R. Nov. 22, 2016) www.corteigh.or.cr/docs/supervisiones/hermanos_landaeta_22_11_16.pdf (Only Available in Spanish).

¹⁸⁷ *See* Galindo Cárdenas et al. v. Perú, Preliminary Objections, Merits, Reparations, and Costs, Inter-Am. Ct. H.R. (ser.C) No. 301, 35 (Oct. 2, 2015) (Available only in Spanish) [hereinafter Galindo Cárdenas Judgment].

¹⁸⁸ *See* Galindo Cárdenas et al. v. Perú, Admissibility Report, Report No. 14/04, Inter-Am. Comm'n H.R., Case No. 11.568, ¶¶ 10-11 (Feb. 27, 2004) [hereinafter Galidno Cárdenas Admissibility Report].

¹⁸⁹ *See* Galindo Cárdenas Judgment *supra* note 187, at 32-3.

¹⁹⁰ *See id.*

¹⁹¹ *See id.* at 35-36.

¹⁹² *See id.*

i. The Case Before the Commission

Upon Luis' release from detention in 1994, he submitted a petition to the Commission.¹⁹³ In 2012, the Commission determined that Perú violated Article 5 (Right to Humane Treatment), Article 7 (Right to Personal Liberty), Article 8 (Right to a Fair Trial), Article 9 (Freedom from Ex Post Facto Laws), and Article 25 (Right to Judicial Protection) of the Convention by unlawfully detaining and torturing Luis.¹⁹⁴ The Commission ordered Perú to pay damages to Luis and his family; investigate the violations of the Convention as it pertains to Luis pending the investigation, punish the perpetrators; and nullify Luis' declaration under the Repentance Law.¹⁹⁵

ii. Court-Ordered Reparations

In 2014, the Commission submitted the case to the Court.¹⁹⁶ The Court found the same violations as the Commission, but did not find that Perú violated Article 9 (Freedom from Ex Post Facto Laws).¹⁹⁷ The Court determined that Perú violated Article 5 because of the "uncertainty of [Luis'] confinement in an environment of pressure and fear" during his detention.¹⁹⁸ The Court also determined that Perú violated Article 5 against Luis' family because they suffered mentally during Luis' prolonged detention.¹⁹⁹

Due to the Convention violations, the Court ordered Perú to provide a variety of reparations to Luis and his family.²⁰⁰ First, the Court ordered Perú to repeal the Repentance Law within six months of the judgment; the repeal would be a Guarantee of Non-Repetition.²⁰¹ Second, the Court ordered Perú to publish the judgment in an official gazette as well as a summary of the judgment on an official judicial website.²⁰² Third, the Court ordered Perú to provide medical care to the Cárdenas family.²⁰³ Finally, the Court ordered Perú to pay \$50,000 to Luis in pecuniary damages, and \$5,000 to Luis' wife and child in non-pecuniary damages.²⁰⁴

At the time that this paper was completed, there was no information available online regarding Perú's compliance with the Court's orders.

c. Baldeón García v. Perú (2006)

On September 25, 1990, Peruvian military forces arrested Bernabé Baldeón García in his village, where the Peruvian military established a base for the country's battle against "armed

¹⁹³ Galindo Cárdenas Admissibility Report *supra* note 188, at ¶ 1.

¹⁹⁴ *Id.* "Decides" at ¶ 1.

¹⁹⁵ *See id.* "Decides" at ¶¶ 4-5.

¹⁹⁶ Galindo Cárdenas Judgment *supra* note 187, at 4.

¹⁹⁷ *Id.* at 82.

¹⁹⁸ *Id.* at 64.

¹⁹⁹ *Id.*

²⁰⁰ *See id.* at 82-84

²⁰¹ *See id.* at 83.

²⁰² *See* Galindo Cárdenas Judgment *supra* note 187, at 75.

²⁰³ *See id.* at 83-84.

²⁰⁴ *See id.* at 84.

insurgents.”²⁰⁵ The soldiers interrogated Bernabé to ascertain the whereabouts of his family member who was on a list of “armed insurgents.”²⁰⁶ During the interrogation, the soldiers beat Bernabé, tied him with wires, hung him upside down from the ceiling, and submerged him in a tank of cold water.²⁰⁷ Bernabé died the next day due to the torture.²⁰⁸ As a result of an investigation initiated by complaints by Bernabé’s sons, the Peruvian Team of Forensic Anthropology exhumed Bernabé’s body 15 years later to discover skeletal trauma and evidence that he had been shot.²⁰⁹

i. The Case Before the Commission

Following Bernabé’s death, the Baldeón family petitioned the Commission in 1997.²¹⁰ In 2004, the Commission determined that Perú violated Article 4 (Right to Life), Article 5 (Right to Humane Treatment), Article 7 (Right to Personal Liberty), Article 8 (Right to a Fair Trial), and Article 25 (Right to Judicial Protection) of the Convention.²¹¹ The Commission recommended that Perú investigate the circumstances surrounding Barnebé’s death, identify and prosecute those responsible for Barnebé’s death, and make financial reparations to Barnebé’s family.²¹²

ii. Court Ordered Reparations

In 2005, the Commission submitted the case to the Court.²¹³ The Court found the same violations of the Convention as the Commission, but did not find that Perú violated Article 8 (Right to a Fair Trial), or Article 25 (Right to Judicial Protection).²¹⁴ Additionally, the Court found that Perú violated Article 1 (Obligation to Prevent and Punish Torture), Article 6 (Obligation to Take Effective Measures and Punish Torture and Cruel, Inhuman, and Degrading Treatment), and Article 8 (Obligation to Investigate) of the Inter-American Convention to Prevent and Punish Torture (IACPPT).²¹⁵ The Court determined that Perú violated Article 5 because traumatic injuries present on Bernabé’s skeleton led to the presumption of torture.²¹⁶ Moreover, the Court determined that Perú violated Article 5 in relation to the Baldeón family because of the suffering they experienced as a direct result of Bernabé’s disappearance, death, and Perú’s delay into investigation of Bernabé’s death.²¹⁷

As a result of the violations of the Convention and the IACPPT, the Court ordered Perú to provide a variety of reparations to the Baldeón family.²¹⁸ First, the Court ordered Perú to publish the

²⁰⁵ See Baldeón García v. Perú, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 147, 23 (Apr. 6, 2006) [hereinafter Baldeón García Judgment].

²⁰⁶ See *id.*

²⁰⁷ See *id.*

²⁰⁸ See *id.*

²⁰⁹ *Id.* at 26.

²¹⁰ *Id.* at 3.

²¹¹ Baldeón García Judgment *supra* note 205, at 3.

²¹² *Id.*

²¹³ *Id.* at 4.

²¹⁴ *Id.* at 34, 39.

²¹⁵ *Id.* at 49.

²¹⁶ See *id.* at 39.

²¹⁷ See Baldeón García Judgment *supra* note 205, at 39.

²¹⁸ *Id.* at 62-3.

Court's judgment in both an official gazette and a nationwide newspaper.²¹⁹ Second, the Court ordered Perú to investigate, identify, prosecute and punish those responsible for the death of Bernabé in a manner that would satisfy international standards for torture investigation.²²⁰ Third, the Court ordered the "highest ranking State authorities" to publicly apologize and assume liability for the murder of Bernabé, which would serve as a Guarantee of Non-Repetition.²²¹ Fourth, the Court ordered Perú to name a street, park, or school after Bernabé as another form of public acknowledgement for the torture that ended his life.²²² Fifth, the Court ordered Perú to provide free mental health care for Bernabé's next of kin.²²³ Finally, the Court ordered Perú to pay \$85,000 in pecuniary damages and \$300,000 in non-pecuniary damages to the family and next of kin of Bernabé.²²⁴

Since the Court's decision in 2006, the Court has released three compliance reports. In the Court's most recent report in 2016, the Court found partial compliance and ordered an additional follow-up.²²⁵

d. Rosendo Cantú et al. v. Mexico (2010)

In 2002, 17-year-old Valentina Rosendo Cantú lived as a member of the Me'phaa indigenous community in Guerrero, Mexico with her infant daughter.²²⁶ While washing clothes in a stream, Valentina was approached by eight Mexican soldiers who asked if she knew where the *encapuchados* (hooded men/guerillas) were.²²⁷ Valentina told the soldiers she did not know the whereabouts of any *encapuchados*, and a soldier responded by hitting her in the stomach with his gun, causing her to fall to the ground and lose consciousness.²²⁸ When Valentina regained consciousness, another soldier grabbed her by the hair and demanded she tell him where the *enchupados* were or he would kill her and everyone in the town.²²⁹ The soldiers continued to threaten and assault Valentina, and two soldiers raped her.²³⁰

i. The Case Before the Commission

Following Valentina's assault, rape, and torture by the Mexican soldiers, she petitioned to the Commission in 2003.²³¹ In 2009, the Commission determined that Mexico violated Article Articles 5 (Right to Humane Treatment), Article 8 (Right to a Fair Trial), Article 11 (Right to Privacy),

²¹⁹ *Id.* at 63.

²²⁰ *Id.* at 63.

²²¹ *See id.*

²²² *See id.*

²²³ *See* Baldeón García Judgment *supra* note 205, at 63.

²²⁴ *See id.* at 54-6.

²²⁵ Baldeón v. Perú, Monitoring Compliance with Judgment, Order of the Court, "Resolves" ¶¶ 1-6 (Int. -Am. Ct. H.R. Jun. 22, 2016) http://www.corteidh.or.cr/docs/supervisiones/Baldeón_22_06_16.pdf. (Only Available in Spanish)

²²⁶ *See* Rosendo Cantú et al. v. Mexico, Preliminary Objections, Merits, Reparations and Costs, Inter-Am. Ct. H.R. (ser. C) No. 216, 22 (Aug. 31, 2010) [hereinafter Rosendo Cantú Judgment].

²²⁷ *See id.*

²²⁸ *See id.*

²²⁹ *See id.*

²³⁰ *See id.*

²³¹ *Id.* at 1.

Article 19 (Rights of the Child), and Article 25 (Right to Judicial Protection) of the Convention.²³² The Commission also found that Mexico violated Article 7 (Duty to Prevent, Punish and Eradicate Violence against Women) of the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women (Belém do Pará).²³³ Finally, the Commission found that Mexico violated Article 1 (Obligation to Prevent and Punish Torture), Article 6 (Obligation to Take Effective Measures) and 8 (Obligation to Investigate) of the IACPPT.²³⁴ The Commission recommended that Mexico immediately notify the parties of the decision, continue to analyze the merits of the case, publish the decision in the Annual Report of the Organization of American States, and make financial reparations to Valentina and her child.²³⁵

ii. Court-Ordered Reparations

In 2009, the Commission submitted the case to the Court.²³⁶ In 2010, the Court found that Mexico violated Article 5 (Right to Humane Treatment), Article 11 (Right to Privacy) of the Convention, as well as Article 1 (Obligation to Prevent and Punish Torture), Article 2 (Acts that Constitute Torture), Article 6 (Obligation to Take Effective Measures and Punish Torture and Cruel, Inhuman, and Degrading Treatment) of the IACPPT.²³⁷ Finally, the Court found that Mexico violated Article 7 (Duty to Prevent, Punish and Eradicate Violence against Women) of the Belém do Pará.²³⁸ The Court determined that Mexico violated Article 5 because, “Mrs. Rosendo Cantú was subjected to an act of violence and physical control by the soldiers who intentionally perpetrated the sexual assault against her.” Additionally, the Court found that “the rape of Mrs. Rosendo Cantú took place in the context of a situation in which the soldiers were questioning the victim without obtaining the information they sought,” thus satisfying the elements of torture.²³⁹

Based on the Court’s findings, the Court ordered Mexico to provide a variety of reparations to Valentina.²⁴⁰ First, the Court ordered Mexico to carry out an investigation of Valentina’s rape in an ordinary jurisdiction, not a military jurisdiction.²⁴¹ Second, the Court ordered Mexico to amend the legal standards regarding subject matter jurisdiction to allow for people like Valentina who wish to contest military jurisdiction, to do so in an effective process.²⁴² Third, the Court ordered Mexico to take responsibility for Valentina’s torture by making a public apology in both Spanish and Me’paa languages to Valentina and her community members.²⁴³ Fourth, the Court ordered Mexico to publish the judgment of the court on a radio broadcast and in the national newspaper in both Spanish and Me’paa.²⁴⁴ Finally, the Court ordered Mexico to pay Valentina \$65,000 in combined pecuniary and non-pecuniary damages for her lost income and the suffering she

²³² Rosendo Cantú Judgment *supra* note 226, at 2.

²³³ Rosendo Cantú v. Mexico, Admissibility Report, Inter-Am. Comm’n H.R., Case No. 12.579 “Decides” ¶ 1 (Oct. 21, 2006) [hereinafter Rosendo Cantú Admissibility Report].

²³⁴ *Id.* “Conclusions” ¶ 38.

²³⁵ *Id.* “Decides” ¶ 1-4

²³⁶ Rosendo Cantú Judgment *supra* note 226, at 1.

²³⁷ *Id.* at 87.

²³⁸ *Id.*

²³⁹ *Id.*

²⁴⁰ *See id.* at 87-88.

²⁴¹ *See* Rosendo Cantú Judgment *supra* note 226, at 87.

²⁴² *See id.* at 88.

²⁴³ *See id.*

²⁴⁴ *See id.*

experienced from her rape and torture.²⁴⁵ The Court also ordered Mexico to pay Valentina's mother \$10,000 in non-pecuniary damages for the suffering she experienced as a result of her daughter's rape and torture.²⁴⁶

Since the Court's decision in 2010, the Court has released one Compliance Report, in which the Court removed the requirement of publication of the judgment in national newspapers due to Valentina's lack of consent.²⁴⁷

These examples of reparations provided through the Inter-American System illustrate that comprehensive reparations for victim of human rights abuses, including torture, are possible. They exemplify that victims are entitled to broad redress for their suffering that should not be limited to monetary compensation alone. Such redress should also include measures to hold the state responsible for its actions both before the law and the national and international communities; to reform the institutional structures that allowed for such abuses; and to honor the memory of the victim.

D. NATIONAL GOVERNMENTS

1. Australia

a. Criminal Punishment

Through the Crimes Legislation Amendment Act of 2010, Australia has set the penalty for torture at a 20-year imprisonment.²⁴⁸ Also, pursuant to Article 2 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) which specifies that torture can never be excused, the 2010 Act states that "absolute liability" applies to torture acts.²⁴⁹ Although the fact that the offense was done out of necessity or under an official order cannot be used as a defense, it may be taken into account to mitigate the sentence under the 2010 Act.²⁵⁰

Australia has also enacted the Australian Security Intelligence Organisation Act 1979, which imposes a maximum of two-years imprisonment on officials who subject those they interrogate to cruel, inhuman or degrading treatment.²⁵¹ In addition, Australian Defence Force members participating in armed conflicts are bound by the Defence Force Discipline Act 1982 and the Criminal Code Act 1995, which set the penalty for crimes against humanity at 10-year imprisonment to life.²⁵² Furthermore, the Crimes Act of 1900 sets the penalties for various acts associated with torture: a 20-year imprisonment for sexual assault with the presence of a third party; 15 years for intentional infliction of grievous bodily harm; 10 years for reckless infliction

²⁴⁵ *See id.* at 82-84.

²⁴⁶ *See id.* at 84.

²⁴⁷ Rosendo Cantú et al. v. Mexico, Monitoring Compliance with Judgment, Order of the Court, (Inter-Am. Ct. H.R. Nov. 25, 2011), http://www.corteidh.or.cr/docs/supervisiones/rosendo_25_11_10_ing.pdf.

²⁴⁸ *Crimes Legislation Amendment (Torture Prohibition and Death Penalty Abolition) Act 2010*, pt. 1 § 274.1(1)-(2) (Austl.).

²⁴⁹ *Id.* § 274.1(3).

²⁵⁰ *Id.* § 274.4.

²⁵¹ *Australian Security Intelligence Organisation Act 1979*, pt I, para 4A.

²⁵² *Defence Force Discipline Act 1982*, pt 2 (Austl.); *Criminal Code Act 1995*, div 268 (Austl.).

of grievous bodily harm, threat to kill, or forcible confinement; and 5 years for acts endangering health or threat to inflict grievous bodily harm.²⁵³

b. Monetary Compensation

In Australia, torture victims may claim reparations through criminal proceedings without alleging parallel civil claims.²⁵⁴ It eases the reparation-seeking process for victims by avoiding the daunting and expensive civil process of compensation determination. As an alternative to court-ordered compensation, there is a call for a national compensation scheme in Australia.²⁵⁵ In the case of the Stolen Generations/Children, the children of Australian Aboriginal and Torres Strait Islander descent who were forcibly separated from their families by the Australian government between 1905 and 1967, many Stolen Children have called for a national compensation fund.²⁵⁶ Cynthia Sario, a Stolen Child, expressed that a national scheme would make a huge difference to the “inherited poverty many [Stolen Generations descendants] now face through no fault of their own.”²⁵⁷ In response, the Australian government has set up a plan to allocate \$63 million to address family separation and its consequences.²⁵⁸

In determining the amount of compensation, Australian courts often consider physical and psychological damages, economic loss, and loss of opportunities.²⁵⁹ The Australian Human Rights Commission has urged the Australian government to consider additional factors such as arbitrary deprivation of liberty and disruption of family life.²⁶⁰ In response, Australia promised to pay \$6 million for development of indigenous family support as part of the reparations to the Stolen Generations.²⁶¹

c. Medical and Psychological Rehabilitation

To help rehabilitation of the Stolen Generations, the Australian government has promised to contribute \$17 million to expand the network of regional centers for emotional and social well-being, giving counsellors professional support and assistance.²⁶² Australia has also provided training and medical support to traumatized refugees through the Service for the Treatment of

²⁵³ *Australia's Fourth Report under the Convention Against Torture*, June 1997 – October 2004, Appendix 1.

²⁵⁴ *See Crimes Act 1914*, s 21B(1)(c) (Austl.).

²⁵⁵ *Bringing Them Home: Report Of The National Inquiry Into The Separation Of Aboriginal And Torres Strait Islander Children From Their Families*, Human Rights and Equal Opportunity Commission, ch 14 (1997), https://www.humanrights.gov.au/sites/default/files/content/pdf/social_justice/bringing_them_home_report.pdf.

²⁵⁶ Bridget Brennan and Matt Peacock, *Stolen Generations Survivors Call For National Compensation Fund* (May 22, 2017), <https://www.abc.net.au/news/2017-05-23/stolen-generations-calling-for-national-compensation-fund/8548596>.

²⁵⁷ *Id.*

²⁵⁸ Antonio Buti and Melissa Parke, *International Law Obligations to Provide Reparations For Human Rights Abuses*, 6 *Murdoch University Electronic Journal of Law* (1999), para 72, <http://www.murdoch.edu.au/elaw/issues/v6n4/buti64.html>.

²⁵⁹ *Bringing Them Home: Report Of The National Inquiry Into The Separation Of Aboriginal And Torres Strait Islander Children From Their Families*, *supra* note 255.

²⁶⁰ Antonio Buti and Melissa Parke, *supra* note 258, para 66.

²⁶¹ *Id.* para 72.

²⁶² *Id.*

Torture and Trauma Survivors and the New South Wales Refugee Health Service.²⁶³ Due to the specialized training of treatment providers offered by the government, the providers often know better how to interact with torture victims and how to help them rehabilitate.²⁶⁴

d. Acknowledgement and Apology

On February 13, 2008, Kevin Rudd, the then Prime Minister of Australia made a formal, national apology on behalf of the Australian government to the Stolen Generations.²⁶⁵ It was broadcast nationally, and its transcript and videos are accessible on the Australian government's official website.²⁶⁶ About 1.3 million people followed the event on television or on the radio.²⁶⁷ In addition, members of the Stolen Generations were invited to the Parliament to hear the apology in person.²⁶⁸ Furthermore, thousands of people, Aboriginal and non-Aboriginal, Australians and non-Australians, gathered on the lawns of the Parliament to hear the apology.²⁶⁹ The global attention is important because reconciliation is impossible without the effort of the whole community, which includes not only victims, but also perpetrators and bystanders.

This apology is a good example of a formal national apology. It included the words “apologize” and “sorry” twenty-eight times.²⁷⁰ It admitted the liability of the Australian government by acknowledging the pain and suffering which the parliament caused.²⁷¹ The apology guaranteed that “the injustices of the past must *never, never* happen again.”²⁷² In addition, the apology stated its purposes were for “the healing of the nation,” for “righting past wrongs,” and for “reconciliation between indigenous and non-indigenous Australians.”²⁷³ Furthermore, the apology set specific targets to achieve such purposes: “Let us resolve over the next five years to have every indigenous four-year-old in a remote Aboriginal community enrolled in and attending a proper early childhood education center”²⁷⁴

In the apology, Mr. Rudd acknowledged the pain and suffering the Australian government has inflicted on the Stolen Generations through a detailed personal account of one Stolen Child, Nanna Nungala Fejo.²⁷⁵ In Mr. Rudd's description, Fejo was not a faceless and helpless victim but a human being with personality: “an elegant, eloquent and powerful woman . . . full of life [and]

²⁶³ Janice Reid, Derrick Silove, and Ruth Tarn, *The Development Of The New South Wales Service For The Treatment And Rehabilitation Of Torture And Trauma Survivors (STARTTS): The First Year*, 24 *Australian and New Zealand Journal of Psychiatry* 486, 492, DOI: 10.3109/00048679009062904 (2010).

²⁶⁴ *See id.*

²⁶⁵ *Apology To Australia's Indigenous People* (accessed on Nov. 21, 2018), <https://www.australia.gov.au/about-australia/our-country/our-people/apology-to-australias-indigenous-peoples>.

²⁶⁶ *Id.*

²⁶⁷ Isabelle Auguste, *On The Significance Of Saying “Sorry” – Politics Of Memory And Aboriginal Reconciliation In Australia*, 3 *Coolabah* 43, 46, <http://revistes.ub.edu/index.php/coolabah/article/viewFile/15723/18839> (2009).

²⁶⁸ Bridget Brennan and Matt Peacock, *supra* note 256.

²⁶⁹ *Id.*

²⁷⁰ *See Apology to Australia's Indigenous People, supra* note 265.

²⁷¹ *Id.*

²⁷² *Id.* (emphasis added).

²⁷³ *Id.*

²⁷⁴ *Id.*

²⁷⁵ *Id.*

funny stories.”²⁷⁶ The humanization placed indigenous and nonindigenous people on equal ground, which helps reconciliation of the whole nation. In addition, Mr. Rudd described Fejo’s happy but fleeting childhood memories with her parents and siblings.²⁷⁷ The contrast between the happiness of the four-year-old girl and her later experience of being repeatedly hunted down and shipped to different locations, makes evident the pain and suffering of the victims: “The pain is searing; it screams from the pages. The hurt, the humiliation, the degradation and the sheer brutality of the act of physically separating a mother from her children is a deep assault on . . . our most elemental humanity.”²⁷⁸ And all the pain and suffering stressed by Mr. Rudd makes the “stony, stubborn and deafening silence” from the successive governments of Australia wrong and intolerable, especially given the fact that Fejo’s story is just “one of the tens of thousands of stories of forced separation.”²⁷⁹

The acknowledgement was not only about the government’s inaction but was a further revelation about what the government had actively done wrong. Mr. Rudd stressed that the forced separation was “the product of the deliberate, calculated policies of the state” which were taken to such extremes that “the forced extractions of children of so-called mixed lineage were seen as part of a broader policy of dealing with the problems of the Aboriginal population.”²⁸⁰ Furthermore, Mr. Rudd quoted “the most notorious” speech from the Northern Territory Protector of Natives: “[B]y the sixth generation, all native characteristics of the Australian Aborigine are *eradicated*. The problem of our *half-castes* will quickly be eliminated by the *complete disappearance* of the black race.”²⁸¹ By bringing the most disturbing facts out before the public, Mr. Rudd showed his sincerity in making the apology.

The apology was a great success. Ian Hamm, one Stolen Child, called it a “breakthrough moment: it wasn’t an argument. It was just this happened, and we need to do something about it.”²⁸² One can also see the success from the audience’s applause and tears and the hugs between Mr. Rudd and the Stolen Generations.²⁸³ The audience’s reactions indicate that money is not always victims’ first need, and a sincere apology can go a long way in achieving rehabilitation.

Long before the apology, a national Sorry Day was created on May 26, 1998 to commemorate the mistreatment of the Stolen Generations.²⁸⁴ Since the creation, there has been a massive positive response from State Parliaments, churches, community groups, and local governments taking the stance of apologizing by signing the Sorry Books.²⁸⁵ Besides apologies, the Australian government has also allocated \$2 million to Australian Archives to index, copy and preserve thousands of files so that they are more readily accessible, and \$1.6 million to the National Library for an oral history

²⁷⁶ *Id.*

²⁷⁷ *Id.*

²⁷⁸ *Id.*

²⁷⁹ *Id.*

²⁸⁰ *Id.*

²⁸¹ *Id.* (emphasis added).

²⁸² Calla Wahlquist, *Rudd’s Apology, 10 Years On: The Elusive Hope Of A “Breakthrough Moment*, (Feb 11, 2018), <https://www.theguardian.com/australia-news/2018/feb/12/looking-back-at-rudds-apology-the-shining-hope-of-a-breakthrough-moment>.

²⁸³ See *Apology To Australia’s Indigenous People*, *supra* note 265.

²⁸⁴ Stolen Generations (accessed on Nov. 12, 2018), <https://antar.org.au/campaigns/stolen-generations>.

²⁸⁵ *Id.*

project in recognition of the importance of the indigenous people telling their stories of family separation.²⁸⁶

e. Guarantee of Non-Repetition

Australia has made considerable non-repetition efforts in preventing torture by governmental officials. For example, the South Australia Police has introduced Incident Management and Operational Safety Training, instructing police officers on how to avoid unnecessary force in the course of law enforcement activities.²⁸⁷ Also, all States in Australia have established intensive and regular programs for prison officers and military personnel to receive information about their statutory obligations relating to use of force and reporting requirements.²⁸⁸ In addition, the Immigration Detention Standards (IDS) provides guidelines for use of force to immigration officers and any companies that contract with the Australian government to deliver detention and removal services at immigration detention centers.²⁸⁹ The IDS restricts use of force as a measure of last resort where all other control methods have failed.²⁹⁰ Furthermore, the Australian Security Intelligence Organisation Act 1979 prohibits punishment in questioning terrorist suspects, and requires any questioning proceeding to be supervised by a judicial authority.²⁹¹

2. United Kingdom

a. Criminal Punishment

In the United Kingdom (UK), “a person who commits the offence of torture shall be liable on conviction on indictment to imprisonment for life.”²⁹²

b. Monetary Compensation

The British government provided a £500,000 (\$628,701 USD) settlement to Fatima Boudchar, a victim of the CIA’s extraordinary rendition and torture program, who was kidnapped and tortured when she was four and a half months pregnant and was only released shortly before giving birth.²⁹³ The settlement was not offered until after papers came to light, six years later, during the Libyan revolution, which revealed the role of the British intelligence officers in Boudchar’s kidnapping.²⁹⁴

The British government has also offered a £19.9 million (\$25,022,319 million) settlement in 2013 to 5,228 living victims who were detained and tortured by British colonial officials during the

²⁸⁶ Antonio Buti and Melissa Parke, *supra* note 260, para 72.

²⁸⁷ See *Australia’s Fourth Report under the Convention Against Torture*, *supra* note 253, pt 3.1, para 50.

²⁸⁸ *Id.* pt 3.1, para 54, 61.

²⁸⁹ *Id.* pt 8.1.

²⁹⁰ *Id.*

²⁹¹ *Australian Security Intelligence Organisation Act 1979*, *supra* note 251, div 3, sub-div A, 34G and 34P.

²⁹² Criminal Justice Act 1988 § 134 (UK).

²⁹³ Ian Cobain, Owen Bowcott, Pippa Crerar, and Kareem Shaheen, *Britain Apologises For “Appalling Treatment” Of Abdel Hakim Belhaj* (May 10, 2018), <https://www.theguardian.com/world/2018/may/10/britain-apologises-for-appalling-treatment-of-abdel-hakim-belhaj>.

²⁹⁴ *Id.*

repression of an independence movement called the Mau Mau uprising in the 1950s.²⁹⁵ The British government did not offer the settlement until the High Court, in 2012, allowed a personal injury case brought by three Mau Mau victims against the Foreign Commonwealth Office (FCO) to proceed to trial.²⁹⁶ Specifically, the court held in a strongly worded judgment that there was clearly an arguable case against the FCO, after rejecting the FCO's arguments regarding statute of limitations and the transfer of liability from the British colonial government to Kenyan Republic.²⁹⁷ The fact that the British government began settlement negotiation six months after the judgment shows the significant impact of judicial opinions on settlements.²⁹⁸

The £19.9 million settlement was also partly induced by international political pressure, with the then United Nations' special rapporteur on torture, Juan Méndez, calling publicly on the British government to provide "fair and adequate compensation."²⁹⁹ It suggests that the £19.9 million settlement has some reference value in determining the amount of compensation obligatory to torture victims, but the reference value is relatively low because victim rehabilitation is often not the only consideration in determining the amount of settlement.³⁰⁰

Besides settlements, the British government has also created the Criminal Injuries Compensation Scheme (CICS), a government funded scheme designed to compensate victims of violent crimes.³⁰¹ The decision to award compensation under the CICS is based on the balance of probabilities, which is lower than the "beyond a reasonable doubt" standard in criminal cases, so a person may be entitled to receive compensation even when there is insufficient evidence to secure a conviction.³⁰² The CICS considers the following factors in determining the amount of compensation: mental or physical injury; sexual or physical abuse; loss of earnings; special expenses payments incurred as a direct result of the crime; and a fatality caused by the crime, including bereavement payments, payments for loss of parental services and funeral payments.³⁰³

c. Medical and Psychological Rehabilitation

In the United Kingdom, there is little guidance for assessing and documenting torture and there are only a few medico-legal reports on torture treatments.³⁰⁴ This circumstance suggests the possibility of the British government funding medical and psychological research on torture

²⁹⁵ Marc Parry, *Uncovering The Brutal Truth About The British Empire* (Aug. 16, 2016), <https://www.theguardian.com/news/2016/aug/18/uncovering-truth-british-empire-caroline-elkins-mau-mau>.

²⁹⁶ *Mutua & Ors v. Foreign & Commonwealth Office* [2011] EWHC 1913 (QB) para 9 (Eng.).

²⁹⁷ *Id.*

²⁹⁸ See Alex Wessely, *The Mau Mau Case—Five Years On* (Oct. 6, 2017),

<https://www.leighday.co.uk/Blog/October-2017/Kenyan-colonial-abuses-apology-five-years-on>.

²⁹⁹ Ian Cobain and Jessica Hatcher Nairobi, *Kenyan Mau Mau Victims In Talks With UK Government Over Legal Settlement* (May 5, 2013), <https://www.theguardian.com/world/2013/may/05/mau-mau-victims-kenya-settlement>.

³⁰⁰ See Alex Wessely, *supra* note 298.

³⁰¹ *Criminal Injuries Compensation: A Guide* (Nov. 18, 2016), <https://www.gov.uk/guidance/criminal-injuries-compensation-a-guide#what-is-the-criminal-injuries-compensation-scheme>.

³⁰² *Id.*

³⁰³ *Id.*

³⁰⁴ Helen McColl, Kamaldeep Bhui, and Edgar Jones, *The Role Of Doctors In Investigation, Prevention And Treatment Of Torture*, 105 J R Soc Med, 464, 466 (2012), <https://pdfs.semanticscholar.org/54e2/73145d7d3a57d4d8c45fda97a6eabc6bdf9f.pdf>.

treatments. Although torture victims are not the direct beneficiaries of the research fund, provision of such a fund may be more cost-efficient in the long run in helping victims achieve rehabilitation rather than monetary compensation. Also, research funding and monetary compensation are not mutually exclusive: both can be available to victims.

d. Acknowledgment and Apology

On June 6, 2013, William Hague, the then-foreign secretary, made the following statement to the House of Commons: “The British government recognizes that Kenyans were subject to torture ... at the hands of the colonial administration and sincerely regrets that these abuses took place ... Torture and ill-treatment are abhorrent violations of human dignity.”³⁰⁵ The statement is significant to the victims as it sends a signal to the world that no matter how badly human beings behave towards one another, goodness ultimately prevails.³⁰⁶

Theresa May, the UK Prime Minister, went beyond mere acknowledgement of the fact: through a letter, she apologized to Abdel Hakim Belhaj and his wife, Fatima Boudchar, victims of CIA’s extraordinary rendition and torture program, for Britain’s role in facilitating the program.³⁰⁷ The letter was read out by Jeremy Wright, the attorney general, in the Commons, and was also handed to Belhaj in person by the British ambassador in Istanbul.³⁰⁸ The letter stated:

It is clear that you were both subjected to appalling treatment ... The UK government’s actions *contributed* to your detention, rendition and suffering. On behalf of Her Majesty’s government I *apologise unreservedly*. We are *profoundly sorry* for the ordeal that you both suffered and our role in it.³⁰⁹

According to Belhaj, the wording of the apology was heartfelt: there was “an expression of unreserved apology, lessons learned, [and] admission of failings.”³¹⁰ The apology was essential to the Belhaj family. The family rejected an earlier monetary settlement offer because it did not come with an apology.³¹¹ Belhaj said: “From the very first moment, I insisted that there must be an apology. I never asked for monetary compensation because I don’t want to impose on the taxpayers, and so I can put a quick end to this suffering.”³¹²

Besides apologies, the British government has acknowledged the past through other ways. For example, the British High Commissioner to Kenya unveiled a memorial featuring a statute of a fighter, in Nairobi, the capital of Kenyan Republic, on September 12, 2015, commemorating the

³⁰⁵ *Mau Mau Torture Victims To Receive £19.9m Compensation From Britain* (Nov. 28, 2018), <https://www.telegraph.co.uk/news/worldnews/africaandindianocean/kenya/10103434/Mau-Mau-torture-victims-to-receive-19.9m-compensation-from-Britain.html>.

³⁰⁶ *Mau Mau Torture Victims To Receive Compensation – Hague* (June 6, 2013), <https://www.bbc.com/news/uk-22790037>.

³⁰⁷ Ian Cobain, Owen Bowcott, Pippa Crerar, and Kareem Shaheen, *supra* note 293.

³⁰⁸ *Id.*

³⁰⁹ *Id.* (emphasis added).

³¹⁰ *Id.*

³¹¹ *Id.*

³¹² *Id.*

Mau Mau victims.³¹³ “This memorial is a symbol of reconciliation between the British government, the Mau Mau, and all those who suffered,” reads the stone plaque on the memorial.³¹⁴

3. *Sweden*

a. **Mohammed El-Zari and Ahmed Agiza**

Mohammed El-Zari and Ahmed Agiza, Egyptian citizens, were victims of the extraordinary rendition and torture program run by the CIA.³¹⁵ On December 18, 2001, El-Zari and Agiza, who were seeking asylum in Sweden, were arrested and brought to the Bromma airport in Stockholm, Sweden, where they were passed off to U.S. CIA officials and Egyptian government officials.³¹⁶ The men were then placed on board a CIA-owned Gulfstream airplane, where they were rendered to Cairo, Egypt based on information that they were associated with Islamist groups responsible for terrorist acts.³¹⁷ Agiza was not released until August 2, 2011, and El-Zari was released without charge on October 27, 2003.³¹⁸

b. **Torture of Mohammed El-Zari and Ahmed Agiza**

Once in Egypt, the men were “repeatedly beaten by prison guards, denied necessary medication, blindfolded during interrogations, and threatened with reprisals against family members if they did not cooperate with the interrogations and provide the information.”³¹⁹ During his detention, Agiza was “repeatedly tortured, including through electric shocks, death threats, and threats of sexual abuse against his female relatives.”³²⁰ El-Zari was subjected to five weeks of interrogation and torture, including electric shocks to the genitals, nipples and ears.³²¹

c. **Accountability and Reparations**

In 2005, Swedish officials investigated the rendition of Agiza and El-Zari, and it was found that the “Swedish police failed to establish adequate control of the airport, voluntarily relinquished the men to the CIA, and that their inhumane and unlawful treatment violated Article 3 of the European Convention.”³²² As a result of the investigation, the Swedish government agreed to pay

³¹³ Mau Mau Memorial Set To Open In Nairobi’s Uhuru Park In Rare Colonial Apology (accessed on Nov. 21, 2018), <https://www.nation.co.ke/news/British-funded-Mau-Mau-memorial-set-to-open-Uhuru-Park/-/1056/2866564/-/jmccjoz/-/index.html>.

³¹⁴ *Id.*

³¹⁵ *Ahmed Agiza and Mohamed El-Zery*, THE RENDITION PROJECT, https://www.therenditionproject.org.uk/prisoners/agiza_elzery.html.

³¹⁶ *Id.*

³¹⁷ *Id.*

³¹⁸ *Ahmed Agiza and Mohamed El-Zery*, *supra* note 315.

³¹⁹ *From Stockholm to Cairo: Ahmad Agiza and Muhammad Al-Zari*, HUMAN RIGHTS WATCH, <https://www.hrw.org/reports/2005/egypt0505/7.htm> [hereinafter *From Stockholm to Cairo*].

³²⁰ *Ahmed Agiza and Mohamed El-Zery*, *supra* note 315.

³²¹ *Id.*

³²² *Reparation & Apology: State Responses to Secret Detention and Torture*, GLOBAL JUSTICE CLINIC NEW YORK UNIVERSITY SCHOOL OF LAW 18, (Oct. 23, 2015), https://www.aclu.org/sites/default/files/field_document/reparation_and_apology_-_state_responses_to_secret_detention_and_torture.pdf.

compensation to both El-Zari and Agiza.³²³ In July 2008, the Swedish Chancellor of Justice ordered that 3,160,000 Swedish krona (\$348,484 USD) should be paid to El-Zari as compensation.³²⁴ Later that same year, a similar amount was paid to Agiza.³²⁵ Additionally, both El-Zari and Ahmed Agiza were granted a permanent residence permit in Sweden.³²⁶ It is the hope that reparations provided to El-Zari and Agiza assist in their recovery.

4. Canada

a. Maher Arar

On September 26, 2002, Maher Arar, a dual citizen of Canada and Syria, was detained at the John F. Kennedy International Airport in New York.³²⁷ With what was later found to be false information, Canadian authorities informed the United States that Arar was likely a terrorist with al-Qaeda connections, and as a result, on October 8, 2002, the United States rendered him to Syria.³²⁸

For over ten months, beginning in October 2002, Arar was detained at a prison operated by Syrian military intelligence.³²⁹ During that time, he was held in a tiny cell with concrete walls and a tiled floor.³³⁰ Arar was beaten, interrogated, and whipped with an electrical cable.³³¹ Furthermore, he was regularly threatened with additional torture and forced to listen to others being tortured.³³² After over ten months in detention, on October 5, 2003, Syria released Arar without filing any charges.³³³

As a result of Arar's rendition and torture, both he and his family suffered severe consequences. Arar's time in detention destroyed him mentally: "These past few years have been a nightmare for me . . . I still have nightmares and recurring flashbacks. I have lost confidence in myself and I live in constant fear of flying and being kidnapped again. I am not the same person that I was."³³⁴ In

³²³ *Id.*; *Government of Sweden's response to CAT Recommendations*, MINISTRY FOR FOREIGN AFFAIRS SWEDEN 4, (June 3, 2009), <http://www.manskligarattigheter.se/Media/Get/304/>.

³²⁴ *Sweden: Submission to the United Nations Committee Against Torture*, AMNESTY INTERNATIONAL 4, (Oct. 2014), <https://www.amnesty.org/download/Documents/8000/eur420012014en.pdf>.

³²⁵ *Sweden: Submission to the United Nations Committee Against Torture*, *supra* note 324.

³²⁶ *Sweden: Submission to the United Nations Committee Against Torture*, *supra* note 324.

³²⁷ *The Story of Maher Arar Rendition to Torture*, CENTER FOR CONSTITUTIONAL RIGHTS, 2 (last modified Jan 11, 2010), <https://ccrjustice.org/sites/default/files/assets/FINAL%20updated%20rendition%20to%20torture%20report%20dec%202008.pdf> [hereinafter *The Story of Maher Arar*].

³²⁸ *Rendition to Torture: The Case of Maher Arar, Joint Hearing Before the Subcomm. on International Organizations, Human Rights, and Oversight and the Subcomm. on the Constitution, Civil Rights, and Civil Liberties*, 110th Cong. 4-27 (2007) [hereinafter *Joint Hearing*].

³²⁹ *Prisoners: Maher Arar*, THE RENDITION PROJECT (last visited Nov. 29, 2018), <https://www.therenditionproject.org.uk/prisoners/arar.html#> [hereinafter *Prisoners: Maher Arar*].

³³⁰ *Id.*

³³¹ *Id.*

³³² *The Story of Maher Arar*, *supra* note 327, at 4.

³³³ *Id.*

³³⁴ *Joint Hearing*, *supra* note 328, at 28.

addition to psychological consequences, Arar faced economic hardship.³³⁵ Because Arar was portrayed as a terrorist, he experienced difficulty in finding gainful employment in his field.³³⁶

b. Accountability for Maher Arar

In the United States, Arar brought a case against the United States officials responsible for his rendition to torture.³³⁷ The case, *Arar v. Ashcroft*, was brought in the U.S. District Court for the Eastern District of New York in 2006.³³⁸ After years of litigation, it was held that Arar could not sue the United States' government due to national security concerns.³³⁹

In order to evaluate the Canadian government's involvement in Arar's rendition to torture, the Canadian government launched a Commission of Inquiry to investigate the actions of Canadian officials in relation to Arar's case and make policy recommendations for the future activities of the Royal Canadian Mounted Police (RCMP).³⁴⁰ The Commission's report found no evidence implicating Arar in terrorist activity, that Canadian officials provided the U.S. inaccurate information about Arar, that Canadian officials had not acted quickly enough to get Arar out of Syria, and that Canadian officials leaked false information which harmed Arar's reputation.³⁴¹

c. Reparations for Maher Arar

i. Reparations from Canada

In January 2007, the Canadian government provided Arar with reparations in the form of compensation and an official apology.³⁴² As compensation, Arar received \$10.5 million for damages and \$1 million to cover legal fees.³⁴³ The Prime Minister of Canada and the Commissioner of the RCMP apologized to Arar and his family for their suffering.³⁴⁴ The apology from the Canadian government included acknowledgment of wrongdoing, assurance that action will be taken to prevent similar violations, and hope for the future.³⁴⁵ After receiving an apology

³³⁵ *Commission of Inquiry*, *supra* note **Error! Bookmark not defined.**, at 816.

³³⁶ *Id.*

³³⁷ *The Story of Maher Arar*, *supra* note 327, at 6.

³³⁸ *Arar v. Ashcroft*, 414 F. Supp. 2d 250 (E.D.N.Y. 2006).

³³⁹ *The Story of Maher Arar*, *supra* note 327, at 7.

³⁴⁰ GARRY BREITKREUZ, REVIEW OF THE FINDINGS AND RECOMMENDATIONS ARISING FROM THE IACOBUCCI AND O'CONNOR INQUIRIES 3 (June 2009) [hereinafter *Review of the Findings*].

³⁴¹ *The Story of Maher Arar*, *supra* note 327, at 10.

³⁴² *Id.*

³⁴³ Tonda Maccharles, *Ottawa to Settle Lawsuit with Three Muslim Canadians Jailed, Tortured in Syria* (Feb 17, 2017), <https://www.thestar.com/news/canada/2017/02/17/ottawa-to-settle-lawsuit-with-three-muslim-canadians-jailed-tortured-in-syria.html>.

³⁴⁴ *Prime Minister Releases Letter of Apology to Maher Arar and His Family and Announces Completion of Mediation Process*, GOVERNMENT OF CANADA (Jan. 26, 2017), <https://www.canada.ca/en/news/archive/2007/01/prime-minister-releases-letter-apology-maher-arar-his-family-announces-completion-mediation-process.html>.

³⁴⁵ *Id.*

and compensation from the Canadian government, Arar expressed gratitude and accepted that the Canadian government acknowledged his innocence.³⁴⁶

ii. Reparations from the United States

The United States failed to provide Arar with adequate reparations, but lawmakers did issue an unofficial apology acknowledging Arar's suffering.³⁴⁷ U.S. lawmakers acknowledged the role of the United States in Arar's extraordinary rendition and torture: "let me personally give you what our Government has not—an apology. Let me apologize to you and to the Canadian people for our Government's role in this mistake."³⁴⁸ While Arar is hopeful for an official apology from the United States' government, he is grateful for some recognition that the United States was responsible for his extraordinary rendition to torture.³⁴⁹

d. Additional Cases of Extraordinary Rendition and Torture in Canada

Although Maher Arar is the best-known case in Canada with regard to wrongful rendition, there are three additional men with similar experiences to Arar: Abdullah Almalki, Ahmad Abou-Elmaati, and Muayyed Nureddin.³⁵⁰

Abdullah Almalki is a Canadian citizen who was imprisoned for 22 months and brutally tortured in Syria after Canadian officials sent false information to Syrian authorities, alleging that he was a terrorist threat.³⁵¹ Almalki was lashed hundreds of times on the soles of his feet, legs, genitals and other parts of his body.³⁵² Eventually, he was cleared of all charges and returned to Canada.³⁵³

Ahmad Abou-Elmaati is a dual Canadian-Egyptian citizen who was imprisoned in Syria in the fall of 2001³⁵⁴ and not released until January 2004.³⁵⁵ While imprisoned, he was tortured, interrogated, and held in inhumane conditions.³⁵⁶

³⁴⁶ *Maher Arar Accepts Ottawa's Apology-And \$10.5 Million Compensation*, CITYNEWS (Jan. 26, 2007), <https://toronto.citynews.ca/2007/01/26/maher-arar-accepts-ottawas-apology-and-10-5-million-compensation/>.

³⁴⁷ *Joint Hearing*, *supra* note 328, at 3.

³⁴⁸ *Id.*

³⁴⁹ *Id.*, at 26.

³⁵⁰ *Internal Inquiry Into the Actions of Canadian Officials in relation to Abdullah Almalki, Ahmad Abou-Elmaati and Muayyed Nureddin (Iacobucci Inquiry)*, AMNESTY INTERNATIONAL (Mar. 3, 2017), <https://www.amnesty.ca/legal-brief/internal-inquiry-actions-canadian-officials-relation-abdullah-almalki-ahmad-abou-elmaati> [hereinafter *Internal Inquiry*].

³⁵¹ *Internal Inquiry*, *supra* note 350.

³⁵² Nazim Baksh, *Federal Government Reaches Settlement with 3 Canadian Men Tortured in Syria and Egypt*, CBC NEWS (Mar. 17, 2017), <https://www.cbc.ca/news/canada/goodale-freeland-settlement-apology-1.4016572> [hereinafter *Government Reaches Settlement*].

³⁵³ *Internal Inquiry*, *supra* note 350.

³⁵⁴ *Id.*

³⁵⁵ *Government Reaches Settlement*, *supra* note 352.

³⁵⁶ *Internal Inquiry*, *supra* note 350.

Muayyed Nureddin is a dual Canadian-Iraqi citizen and was arrested at the Syrian border on his way home to Canada from Iraq.³⁵⁷ He was detained in degrading conditions and tortured over the course of 33 days.³⁵⁸

The Canadian government conducted an internal inquiry where it was found that while “none of the actions taken by Canadian officials directly contributed to the detention or mistreatment” of these Canadians, actions of Canadian officials “indirectly contributed to their detention and mistreatment.”³⁵⁹

i. Reparations

Almalki, Abou-Elmaati, and Nureddin received reparations from the Canadian government. As compensation, the victims were given 31.3 million dollars from the Canadian government to be split amongst themselves.³⁶⁰ Additionally, the Canadian government issued an apology to the victims: “On behalf of the government of Canada, we wish to apologize to Mr. Almalki, Mr. Abou-Elmaati and Mr. Nureddin, and their families, for any role Canadian officials may have played in relation to their detention and mistreatment abroad and any resulting harm.”³⁶¹ By providing reparations to victims of extraordinary rendition and torture, the Canadian government is sending a message that torture will not be tolerated in the future.³⁶²

5. The United States

a. Binding U.S. International Legal Obligations

North Carolina has a legal obligation to provide reparations to victims of the CIA’s extraordinary rendition and torture program under international law. Binding U.S. international legal obligations include The Universal Declaration of Human Rights and The Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment and Punishment, provisions of which are outlined in the following sections. The United States has long recognized that “[i]nternational law is part of our law,” and that U.S. courts must consider and enforce international law “as often as questions of right depending upon it are duly presented” before them.³⁶³ Customary international law expressly prohibits torture and extraordinary rendition, and attributes liability for reparations to any person or person of “higher authority” who directly committed, “authorized, tolerated, or

³⁵⁷ *Internal Inquiry*, *supra* note 350.

³⁵⁸ *Internal Inquiry*, *supra* note 350.

³⁵⁹ *Review of the Findings*, *supra* note 340, at 4-5.

³⁶⁰ *Feds Pay \$31.3M Settlement to 3 Men Unjustly Imprisoned in Syria*, CTV NEWS (Oct. 25, 2017), <https://www.ctvnews.ca/politics/feds-pay-31-3m-settlement-to-3-men-unjustly-imprisoned-in-syria-1.3649390>.

³⁶¹ Nazim Baksh, *Federal Government Reaches Settlement with 3 Canadian Men Tortured in Syria and Egypt*, CBC NEWS (Mar. 17, 2017), <https://www.cbc.ca/news/canada/goodale-freeland-settlement-apology-1.4016572>.

³⁶² *Amnesty International Welcomes Compensation and Apology for Canada’s Role in the Torture and Other Human Rights Violations Endured by Abdullah Almalki, Ahmad Abou-Elmaati and Muayyed Nureddin*, AMNESTY INTERNATIONAL (Mar. 17, 2017), <https://www.amnesty.ca/news/amnesty-international-welcomes-compensation-and-apology-canada’s-role-torture-and-other-human>.

³⁶³ *The Paquete Habana*, 175 U.S. 677, 700 (1900) (explaining that in the absence of an international treaty, U.S. legislation or judicial decision, “resort must be had to the customs and usages of civilized nations[.]”).

knowingly ignored those acts.”³⁶⁴ Moreover, because acts of torture and abuse are “of universal concern,” any state party “may exercise jurisdiction to define and punish” these offenses under the universal jurisdiction doctrine. Therefore, North Carolina should acknowledge not only its legal obligation to provide reparations under international law, but also its responsibility to respond to acts of international, “universal concern,” by taking the lead in the United States to provide redress to victims of torture and abuse.

i. The Universal Declaration of Human Rights

The General Assembly of the United Nations adopted The Universal Declaration of Human Rights in 1948 to recognize “human rights and fundamental freedoms.”³⁶⁵ Article 5 prohibits torture and “cruel, inhuman or degrading treatment or punishment.”³⁶⁶ Article 8 guarantees “the right to an effective remedy” for violations of fundamental freedoms.³⁶⁷ The U.S. government endorsed its obligation to defend human rights under the Universal Declaration as recently as December of 2018.³⁶⁸ To promote respect for human rights, as “a central goal of U.S. foreign policy,” the United States expressly recognized the right to “freedom from torture[.]”³⁶⁹ To this end, the U.S. government made a commitment to “[p]romote the rule of law, seek accountability, and change cultures of impunity[.]”³⁷⁰

The U.S. Bureau of Democracy, Human Rights, and Labor (DRL) claims it “takes consistent positions concerning past, present, and future abuses[.]”³⁷¹ The DRL states that their human rights policy “actively promotes accountability” for past abuses, maintains a “robust support for internal reform,” and “coordinate[s] U.S. policy on human rights with key allies,” among others.³⁷² As further proof of this commitment to human rights, DRL policy claims to “support the creation of effective multilateral human rights mechanisms and institutions for accountability.”³⁷³

The Universal Declaration makes clear that the victims of North Carolina’s participation in the extraordinary rendition and torture are entitled to receive “an effective remedy” for acts expressly prohibited under Article 5, including torture, cruel, inhuman or degrading treatment or punishment, and for other violations of their fundamental freedoms.

ii. The Convention Against Torture (CAT)

³⁶⁴ S. REP. 102-249, 9 (citing Article 4(1) of the CAT and Article 3 of the Inter-American Convention to Prevent and Punish Torture).

³⁶⁵ Universal Declaration of Human Rights, G.A. Res. 217A, U.N. GAOR, 3d Sess., 1st plen. mtg., U.N. Doc. A/810 (Dec. 12, 1948) [hereinafter Universal Declaration].

³⁶⁶ *Id.* at art. V.

³⁶⁷ *Id.* at art. VIII.

³⁶⁸ Human Rights, U.S. Dep’t of State, ¶ 1, available at <https://www.state.gov/j/drl/hr/> [last accessed 12/10/2018 at 10:21PM EST].

³⁶⁹ *Id.* at ¶¶ 1-2.

³⁷⁰ *Id.*

³⁷¹ *Id.* at ¶ 4.

³⁷² *Id.*

³⁷³ *Id.* at ¶ 5.

The UN General Assembly adopted the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) on December 10, 1984, “with strong support from the U.S. Government.”³⁷⁴ Article 2 prohibits the justification of torture and states that “[e]ach State Party shall take effective legislative, administrative, judicial or other measures to prevent” violations.³⁷⁵ Attempts to commit torture, as well as complicity or participation in torture, are considered violations under the CAT, which encourages such acts to be recognized as criminal offenses.³⁷⁶ The CAT emphasizes enforceability, obligating State parties to establish legal mechanisms that recognize the victim’s “enforceable right to fair and adequate compensation[.]”³⁷⁷ These mechanisms should include formal legislation, which “must allow for individuals to exercise this right and ensure their access to a judicial remedy.”³⁷⁸ Other mechanisms include complaints procedures, and independent investigate and judicial authorities — all of which must be “effective and accessible to all victims.”³⁷⁹ Substantively, this legal system should be capable of facilitating victim access to “full and effective redress and reparation, including compensation and the means for as full rehabilitation as possible.”³⁸⁰ Reparations must also be comprehensive, proportionate, and “tailored to the particular needs of the victim.”³⁸¹

The United States signed the CAT on April 18, 1988 and the U.S. Senate ratified it on October 27, 1990. The United States expressed upon ratification its obligations under the CAT extend “only insofar as the term ‘cruel, inhuman or degrading treatment or punishment’ means the cruel, unusual and inhumane treatment or punishment prohibited by the Fifth, Eighth, and/or Fourteenth Amendments[.]”³⁸² The U.S. ratification of the CAT is further evidence of the obligation to provide effective redress to the victims of the extraordinary rendition and torture program.

b. U.S. Constitutional and Statutory Recognitions of the Right to a Remedy

i. Article III and the Alien Tort Statute

The law of nations existing at the time of the First Congress considered “denial[s] of justice” to be serious violations, and the Founding Fathers incorporated this international concern in the U.S. Constitution.³⁸³ Article I grants Congress the authority to “define and punish . . . Offenses against the Law of Nations[.]”³⁸⁴ Article III authorizes the federal judiciary to hear all cases “arising under this Constitution, the Laws of the United States, and Treaties[.]”³⁸⁵ Article III also extends federal

³⁷⁴ H.R. REP. 102-367, 3, 1992 U.S.C.C.A.N. 85.

³⁷⁵ Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment art. 2(1)-(2), 1465 U.N.T.S. 85 (Dec. 10, 1984) [hereinafter CAT].

³⁷⁶ *Id.* at art. 4(1).

³⁷⁷ *Id.* at art. 14.

³⁷⁸ CAT General Comment 3, *supra* note 5, ¶ 20.

³⁷⁹ *Id.*

³⁸⁰ *Id.* at 3(5).

³⁸¹ CAT General Comment 3, *supra* note 5 at ¶ 6.

³⁸² United Nations, *Status of Treaties*, 4 Human Rights 9.

³⁸³ Anthony D’Amato, *The Alien Tort Statute and the Founding of the Constitution*, 82 Am. J. Int’l L. 62, 63-65 (1988); *See also* U.S. const. art. I, § 8, cl. 10; U.S. const. art. III.

³⁸⁴ U.S. const. art. I, § 8, cl. 10.

³⁸⁵ *Id.* at art. III § 2, cl. 1.

judiciary authority to cases and controversies “between a State, or the Citizens thereof, and foreign States, Citizens or Subjects[.]”³⁸⁶

The First Congress enacted the Alien Tort Statute (ATS) as part of the First Judiciary Act of 1789.³⁸⁷ The ATS as amended establishes original federal jurisdiction “of any civil action by an alien for a tort only, committed in violation of the law of nations or a treaty of the United States.”³⁸⁸ The ATS “lay largely dormant” for over 180 years, until *Filartiga v. Pena-Irala*, 630 F.2d 876 (2d Cir. 1980).³⁸⁹ In *Filartiga*, citizens of Paraguay brought suit in district court against the former Inspector General of Police in Paraguay, seeking compensatory and punitive damages under the ATS for the torture and wrongful death of Joelito Filartiga. The district court concluded that violations of international law under the ATS did not include state actions against its own citizens, and dismissed the complaint for lack of subject matter jurisdiction.³⁹⁰

On appeal, the Second Circuit concluded that international law is the modern customary international law “as it has evolved and exists among the nations of the world today.”³⁹¹ Relevant sources of customary international law include “the works of jurists . . . the general usage and practice of nations; or by judicial decisions recognizing and enforcing that law.”³⁹² Concluding that customary international law prohibits official torture, the Second Circuit declared their decision to be “a small but important step in the fulfillment of the ageless dream to free all people from brutal violence.”³⁹³

The force of the ATS in ensuring reparations for victims of torture received a considerable blow in 2007, however, under *Mohamed v. Jeppesen Dataplan, Inc.*, 614 F.3d 1070 (9th Cir. 2010). In that case, the plaintiffs brought suit in district court, alleging that the defendant airline contractor committed forced disappearance and torture.³⁹⁴ The United States moved to dismiss the complaint under the state secrets doctrine, arguing that the privilege covered information that “‘reasonably could be expected to cause serious — and in some instances, exceptionally grave — damage to the national security of the United States[.]’”³⁹⁵ Reluctantly, the Ninth Circuit agreed that the state secrets doctrine barred further litigation and dismissed the plaintiffs case.³⁹⁶

c. Reparations for Japanese Internment

³⁸⁶ *Id.*

³⁸⁷ The Judiciary Act of 1789 § 9, 1 Stat 73, 76-77, codified as amended at 28 U.S.C. § 1350 (2012).

³⁸⁸ 28 U.S.C. § 1350 (2012).

³⁸⁹ *Mohamed v. Jeppesen Dataplan, Inc.*, 614 F.3d 1070, 115-16 (9th Cir. 2010).

³⁹⁰ *Filartiga v. Pena-Irala*, 630 F.2d 876, 880 (2d Cir. 1980)

³⁹¹ *Id.* at 881 (relying on the Supreme Court’s language in *The Paquete Habana*, 175 U.S. 677 (1900)).

³⁹² *Id.* at 880 (quoting *United States v. Smith*, 18 U.S. (5 Wheat.) 153, 160-61 (1820)).

³⁹³ *Id.* at 884-890. The Second Circuit relied on federal statutes on international security assistance 22 U.S.C. § 2304, directing international security assistance, as evidence that U.S. foreign policy “make[s] clear that international law confers fundamental rights upon all people vis-à-vis their own governments.” *Id.* at 885.

³⁹⁴ *Jeppesen Dataplan, supra note 389*, at 1075.

³⁹⁵ *Id.* at 1076.

³⁹⁶ *Id.* at 1073.

After the attack on Pearl Harbor, President Roosevelt issued Executive Order 9066, authorizing the relocation and detention of all persons of Japanese ancestry.³⁹⁷ 117,000 people of Japanese descent suffered under the order, including 70,000 American citizens.³⁹⁸ Victims were held in detainment for up to four years.³⁹⁹ Reparations for the victims, which officially began in 1976, were robust; they included an official inquiry, acknowledgment and apology, and individual compensation.⁴⁰⁰ President Gerald Ford repealed Executive Order 9066 in 1976, and declared that “[a]n honest reckoning . . . must include a recognition of our national mistakes.”⁴⁰¹ Three years later, the Commission on Wartime Relocation and Internment of Civilians launched an investigation into the events and provided specific recommendations for reparations, including formal apology and compensation.⁴⁰² Furthermore, the Civil Liberties Act of 1988 facilitated reparations for the victims, issuing a formal apology and authorizing \$20,000 in compensation to any eligible individuals.⁴⁰³ Since its enactment, the Office of Redress Administration has issued financial restitution to 82, 219 claimants, totaling over \$1.6 billion in compensation.⁴⁰⁴

These reparations demonstrate a “comprehensive federal administration of reparations.”⁴⁰⁵ At the same time, however, the United States failed to provide prompt reparations in this case.⁴⁰⁶ When Congress passed the Civil Liberties Act of 1988, only half of the victims were estimated to still be alive.⁴⁰⁷ North Carolina should learn from this failure by providing *prompt* reparations to the victims of the extraordinary rendition and torture program.

d. Reparations for Victims of Chicago Police Torture and Abuse

The City Council of Chicago approved The Reparations for the Chicago Police Torture Survivors, a resolution providing financial and non-financial reparations to victims of torture and abuse, on May 16, 2015. The Resolution followed Chicago’s discovery of the systematic torture and abuse of over 120, mostly Black men, at the hands of the Chicago Police Department.⁴⁰⁸ For over twenty years, Detective John Burge and his unit had elicited false confessions through torture methods such as electric shock, simulated suffocation, and mock executions.⁴⁰⁹

³⁹⁷ National Archives, Japanese Relocation During World War II, available at <https://www.archives.gov/education/lessons/japanese-relocation> [last accessed 12/14/2018 at 12:00pm].

³⁹⁸ *Id.*

³⁹⁹ New York University School of Law, Global Justice Clinic, *Reparation & Apology: State Responses to Secret Detention and Torture*, 29 (Oct. 23, 2015) [hereinafter Global Justice Clinic].

⁴⁰⁰ *Id.*

⁴⁰¹ Gerald R. Ford, President, Proclamation 4417, Confirming the Termination of the Executive Order Authorizing Japanese-American Internment During World War II (Feb. 19, 1976), available at <http://www.fordlibrarymuseum.gov/library/speeches/760111p.htm>.

⁴⁰² See Global Justice Clinic, *supra note* 399, at 30.

⁴⁰³ *Id.*

⁴⁰⁴ *Id.*

⁴⁰⁵ *Id.* at 31.

⁴⁰⁶ *Id.* at 32.

⁴⁰⁷ *Id.*

⁴⁰⁸ See The 2015 Reparations Ordinance, University of Chicago, Chicago Torture Archive, available at: <https://chicagotorturearchive.uchicago.edu/page/2015-reparations-ordinance> [hereinafter Reparations Ordinance]; See also Chicago Torture Justice Center, About Us, <http://chicagotorturejustice.org/about-us/>.

⁴⁰⁹ G. Flint Taylor, *The Long Path to Reparations for the Survivors of Chicago Police Torture*, 11 Northwestern J. L. & Soc. Pol’y, 3 (2016).

The Reparations Resolution and Amended Ordinance reflects the City's agreement with advocacy group Chicago Torture Justice Memorials to provide adequate and effective reparations to the victims.⁴¹⁰ After the Resolution received full approval from the Finance Committee, Alderman Joe Moreno and newly-elected mayor Rahm Emanuel presented it to the City Council.⁴¹¹ Each survivor in attendance received official recognition through a formal reading of names and applause.⁴¹² The City Council resolved to "reaffirm our City's commitment to righting the wrongs of the past, and in so doing, reassure Chicago's residents that such wrongs will not be repeated in the future."⁴¹³ In addition to providing a formal apology and recognition of wrongs, the 2015 Chicago Resolution authorized individual financial compensation to the victims, the creation of an official memorial, and a mandate that all public school students would learn about the events in eighth- and tenth-grade history courses.⁴¹⁴ Furthermore, the Resolution provided extensive rehabilitation to victims and their family members, including psychological counseling, access to job training, and food, housing, and transportation services.⁴¹⁵ Finally, the City declared that victims and their immediate family members and grandchildren would receive free tuition at the City Colleges of Chicago.⁴¹⁶

The federal reparations to victims of Japanese internment and 2015 Chicago Resolution are models of comprehensive reparations to victims of torture and abuse. North Carolina should follow these examples by authorizing an investigation into allegations of torture, preferably conducted by an independent office or organization. The investigation's report should be made public, to ensure that the victims receive a public acknowledgment of the wrongs. Furthermore, North Carolina should respond to any and all calls for reparations, ensuring that victims receive prompt and effective reparations that address the individual needs of victims, their families, and the larger community. Such reparations should not only include financial compensation, but measures designed to facilitate the victim's rehabilitation, including medical care, psychological counseling, and access to social services, including food, housing, transportation, and job training.

IV. CONCLUSION AND REPARATIONS RECOMMENDATIONS

Victims of the CIA's extraordinary rendition and torture program suffered horrendous physical and psychological mistreatment at the hands of the United States, North Carolina, its political subdivisions, and Aero Contractors. Nearly twenty years since the inception of these violations, no responsible party has been held accountable or provided redress to victims. By evaluating the reparative paradigms of the United Nations, European Court of Human Rights, the Inter-American Human Rights System, and various national governments, this project has aimed to suggest that meaningful redress is not only possible, but necessary. Just as leading international tribunals and national governments have provided reparations to victims of extraordinary rendition and torture and similar abuses, so should the United States, North Carolina and its localities, and Aero. Unless

⁴¹⁰ *Id.* at 348.

⁴¹¹ *Id.* at 349.

⁴¹² *Id.*

⁴¹³ *Id.* at 349-50.

⁴¹⁴ See Reparations Ordinance, *supra* note 408.

⁴¹⁵ *Id.*

⁴¹⁶ *Id.*

and until these political and private entities recognize their wrongdoing and offer reparations, victims' dignity remains unrestored, the potential for these human rights abuses to repeat looms ever-present, and democratic governance is imperiled.

The authors of this report, drawing on the various forms of reparations presented above, exhort North Carolina, its political subdivisions, and Aero to publicly acknowledge their human rights violations and officially apologize to the victims and their families. In addition, the authors call on the state to appoint an independent commission to work with victims and their families to create reparations packages tailored to their specific needs, both pecuniary and non-pecuniary. Such reparations may include an in-depth investigation into the state's and Aero's roles in the extraordinary rendition and torture program and the pursuit of prosecution and criminal sanctions for such wrongdoing. The North Carolina General Assembly should also pass legislation empowering the Attorney General of North Carolina to initiate investigations into such illegal conduct or similar future alleged wrongdoing occurring anywhere in the state as a form of non-repetition.

To illustrate the forms of reparations applicable to the victims of extraordinary rendition and torture, the attached Appendix contains the names of some of the victims, a description of the torture to which each was subjected, and suggested reparations modeled after those provided in the various jurisdictions presented in this report.⁴¹⁷ These examples are intended to model the types of reparations due to all of the victims of the CIA's extraordinary rendition and torture program but do not purport to represent all of the mistreatment each victim suffered nor all of the possible reparations.

See attached Appendix.

<http://www.law.unc.edu/documents/academics/humanrights/reparationsfortorture.pdf>

⁴¹⁷ The names of victims and descriptions of the torture they suffered were drawn from UNC SCHOOL OF LAW HUMAN RIGHTS POLICY LAB, EXTRAORDINARY RENDITION AND TORTURE VICTIM NARRATIVES (Dec. 2017), <http://www.law.unc.edu/documents/academics/humanrights/extraordinaryrenditionandNC.pdf>.

APPENDIX

Victim	Torture Subjected To	European Court of Human Rights	Inter-American System	Australia	United Kingdom	Sweden	Canada	United States
Abu Zubaydah	Subjected to waterboarding; slammed into a wall and slapped in his face; loud music played while he was kept in a box; deprived of food; kept naked in cold conditions; nearly died four times during interrogation; continuous solitary confinement and incommunicado detention; no contact with persons other than his interrogators or guards	ECHR ordered Lithuania, Poland and Romania to pay Mr. Zubaydah 130,000 euros for non-pecuniary damage, costs and expense; conclude a full investigation of Mr. Zubaydah's case as quickly as possible and, if necessary, punish any officials responsible, and make further representations to the United States to remove or limit the effects of the violations of his rights	\$30,000 (USD) to the victim and \$5,000 to next of kin for their suffering. Medical and psychological care for the victim and their next of kin. Investigation and prosecution of those responsible. Publish the judgment online and in print. Public acknowledgement of responsibility by high-ranking U.S., NC. Johnston County, and Aero Contractors officials, including apology. Legislative action to prevent perpetrators from impunity by limiting the scope of the State Secrets Doctrine. Memorial to victims of ER&T.	(1) A 15-year imprisonment to the CIA agents and directors and the employees of the Aero Contractors involved in the rendition program; (2) a national compensation fund that covers physical and psychological damages, economic loss, loss of opportunities, loss of fulfillment, arbitrary deprivation of liberty, and disruption of family life; (3) provision of medical and psychological treatments to the victims accompanied by training of the treatment providers; (4) a formal national apology delivered by the US President on behalf of the US government acknowledging the torture committed under CIA's rendition program and admitting torture as a human rights violation (the apology shall be nationally broadcast and victims shall be invited to hear the apology in person; the apology shall include a detailed description of what the CIA agents have done, specify the purpose of the apology, guarantee the cessation of the rendition program and non-repetition, and set a specific plan to achieve reconciliation of the whole nation; the apology shall be carefully drafted to avoid dehumanization of the victims and to avoid any excuse or diversion to other national issues that do not focus on victim rehabilitation); (5) creation of a national Sorry Day and memorials to commemorate the victims of the rendition program; and (6) an order requiring CIA to make all the documents related to the rendition program publicly available and requiring the U.S. government to devote a certain amount of money to Library of Congress and National Library of Education for copying and preservation of the documents and for development of oral history projects.	(1) Imprisonment to life to the CIA agents and directors and the employees of the Aero Contractors involved in the rendition program; (2) £500,000 compensation to the victim; (3) bereavement payments to the victim's family; (4) governmental funding in medical and psychological research on torture treatments; (5) a formal apology personally delivered to the victim as well as announced publicly; and (6) construction of memorials commemorating the victim.	Compensation reaching up to \$347,890 and potentially a residence permit if the individual is seeking asylum in Sweden.	Compensation amounting to \$10.5 million in damages and necessary legal fees (possibly reaching \$1 million). Additionally, an official apology from the Canadian government.	Reparations are unlikely. Currently detained in Guantánamo Bay Detention Camp indefinitely without trial.
Al Nashiri	Hung upside down for almost a month; subjected to waterboarding and forced to stand in a box for a week; slammed into a wall; and repeatedly forced to stay in stress positions; kept in continuous solitary confinement and incommunicado detention throughout his undisclosed detention, with no knowledge of where he was being held; had no contact with anyone other than his interrogators or guards; subjected to forced rectal feeding at least once	ECHR awarded Mr. al-Nashiri 100,000 euros in damages and recommended that the involved countries conclude a full investigation into Al Nashiri's case as quickly as possible and, if necessary, punish any officials responsible. The Court also asserted that the involved European countries should also seek assurances from the United States that Al Nashiri will not suffer the death penalty	\$30,000 (USD) to the victim and \$5,000 to next of kin for their suffering. Medical and psychological care for the victim and their next of kin. Investigation and prosecution of those responsible. Publish the judgment online and in print. Public acknowledgement of responsibility by high-ranking U.S., NC. Johnston County, and Aero Contractors officials, including apology. Legislative action to prevent perpetrators from impunity by limiting the scope of the State Secrets Doctrine. Memorial to victims of ER&T.	(1) A 10-year imprisonment to the CIA agents and directors and the employees of the Aero Contractors involved in the rendition program; (2) a national compensation fund that covers physical and psychological damages, economic loss, loss of opportunities, loss of fulfillment, arbitrary deprivation of liberty, and disruption of family life; (3) provision of medical and psychological treatments to the victims accompanied by training of the treatment providers; (4) a formal national apology delivered by the US President on behalf of the US government acknowledging the torture committed under CIA's rendition program and admitting torture as a human rights violation (the apology shall be nationally broadcast and victims shall be invited to hear the apology in person; the apology shall include a detailed description of what the CIA agents have done, specify the purpose of the apology, guarantee the cessation of the rendition program and non-repetition, and set a specific plan to achieve reconciliation of the whole nation; the apology shall be carefully drafted to avoid dehumanization of the victims and to avoid any excuse or diversion to other national issues that do not focus on victim rehabilitation); (5) creation of a national Sorry Day and memorials to commemorate the victims of the rendition program; (6) an order requiring CIA to make all the documents related to the rendition program publicly available and requiring the U.S. government to devote a certain amount of money to Library of Congress and National Library of Education for copying and preservation of the documents and for development of oral history projects.	(1) Imprisonment to life to the CIA agents and directors and the employees of the Aero Contractors involved in the rendition program; (2) £500,000 compensation to the victim; (3) bereavement payments to the victim's family; (4) governmental funding in medical and psychological research on torture treatments; (5) a formal apology personally delivered to the victim as well as announced publicly; and (6) construction of memorials commemorating the victim.	Compensation reaching up to \$347,890 and potentially a residence permit if the individual is seeking asylum in Sweden.	Compensation amounting to \$10.5 million in damages and necessary legal fees (possibly reaching \$1 million). Additionally, an official apology from the Canadian government.	Reparations are unlikely. Currently detained at Guantánamo Bay Detention Camp. Case is currently pending before the United States Military Commission, after being denied certiorari by the United States Supreme Court.
Khaled al-Masri	Sexually assaulted/raped; forcibly put into a diaper; hooded; physically beaten	100,000 Euros and an effective investigation of the circumstances of extraordinary rendition and torture	\$30,000 (USD) to the victim and \$5,000 to next of kin for their suffering. Medical and psychological care for the victim and their next of kin. Investigation and prosecution of those responsible. Publish the judgment online and in print. Public acknowledgement of responsibility by high-ranking U.S., NC. Johnston County, and Aero Contractors officials, including apology. Legislative action to prevent perpetrators from impunity by limiting the scope of the State Secrets Doctrine. Memorial to victims of ER&T.	(1) A 20-year imprisonment to the CIA agents and directors and the employees of the Aero Contractors involved in the rendition program; (2) a national compensation fund that covers physical and psychological damages, economic loss, loss of opportunities, loss of fulfillment, arbitrary deprivation of liberty, and disruption of family life; (3) provision of medical and psychological treatments to the victims accompanied by training of the treatment providers; (4) a formal national apology delivered by the US President on behalf of the US government acknowledging the torture committed under CIA's rendition program and admitting torture as a human rights violation (the apology shall be nationally broadcast and victims shall be invited to hear the apology in person; the apology shall include a detailed description of what the CIA agents have done, specify the purpose of the apology, guarantee the cessation of the rendition program and non-repetition, and set a specific plan to achieve reconciliation of the whole nation; the apology shall be carefully drafted to avoid dehumanization of the victims and to avoid any excuse or diversion to other national issues that do not focus on victim rehabilitation); (5) creation of a national Sorry Day and memorials to commemorate the victims of the rendition program; and (6) an order requiring CIA to make all the documents related to the rendition program publicly available and requiring the U.S. government to devote a certain amount of money to Library of Congress and National Library of Education for copying and preservation of the documents and for development of oral history projects.	(1) Imprisonment to life to the CIA agents and directors and the employees of the Aero Contractors involved in the rendition program; (2) £500,000 compensation to the victim; (3) bereavement payments to the victim's family; (4) governmental funding in medical and psychological research on torture treatments; (5) a formal apology personally delivered to the victim as well as announced publicly; and (6) construction of memorials commemorating the victim.	Compensation reaching up to \$347,890 and potentially a residence permit if the individual is seeking asylum in Sweden.	Compensation amounting to \$10.5 million in damages and necessary legal fees (possibly reaching \$1 million). Additionally, an official apology from the Canadian government.	Although these violations violate international, federal, and state law, U.S. courts are unlikely to issue reparations as long as the United States asserts its privilege under the state secrets doctrine.

Victim	Torture Subjected To	European Court of Human Rights	Inter-American System	Australia	United Kingdom	Sweden	Canada	United States
Mohammed al-Asad	Clothing sliced/torn off; forced, thrown, chained into a plane; painfully physically restricted, strapped down; hooded around head; subjected to sensory deprivation, kidnapped without any knowledge of where they were being taken or their location after movement	100,000 Euros and an effective investigation of the circumstances of extraordinary rendition and torture	\$30,000 (USD) to the victim and \$5,000 to next of kin for their suffering. Medical and psychological care for the victim and their next of kin. Investigation and prosecution of those responsible. Publish the judgment online and in print. Public acknowledgement of responsibility by high-ranking U.S., NC. Johnston County, and Aero Contractors officials, including apology. Legislative action to prevent perpetrators from impunity by limiting the scope of the State Secrets Doctrine. Memorial to victims of ER&T.	(1) A 10-year imprisonment to the CIA agents and directors and the employees of the Aero Contractors involved in the rendition program; (2) a national compensation fund that covers physical and psychological damages, economic loss, loss of opportunities, loss of fulfillment, arbitrary deprivation of liberty, and disruption of family life; (3) provision of medical and psychological treatments to the victims accompanied by training of the treatment providers; (4) a formal national apology delivered by the US President on behalf of the US government acknowledging the torture committed under CIA's rendition program and admitting torture as a human rights violation (the apology shall be nationally broadcast and victims shall be invited to hear the apology in person; the apology shall include a detailed description of what the CIA agents have done, specify the purpose of the apology, guarantee the cessation of the rendition program and non-repetition, and set a specific plan to achieve reconciliation of the whole nation; the apology shall be carefully drafted to avoid dehumanization of the victims and to avoid any excuse or diversion to other national issues that do not focus on victim rehabilitation); (5) creation of a national Sorry Day and memorials to commemorate the victims of the rendition program; and (6) an order requiring CIA to make all the documents related to the rendition program publicly available and requiring the U.S. government to devote a certain amount of money to Library of Congress and National Library of Education for copying and preservation of the documents and for development of oral history projects.	(1) Imprisonment to life to the CIA agents and directors and the employees of the Aero Contractors involved in the rendition program; (2) £500,000 compensation to the victim; (3) bereavement payments to the victim's family; (4) governmental funding in medical and psychological research on torture treatments; (5) a formal apology personally delivered to the victim as well as announced publicly; and (6) construction of memorials commemorating the victim.	Compensation reaching up to \$347,890 and potentially a residence permit if the individual is seeking asylum in Sweden.	Compensation amounting to \$10.5 million in damages and necessary legal fees (possibly reaching \$1 million). Additionally, an official apology from the Canadian government.	Although these violations violate international, federal, and state law, U.S. courts are unlikely to issue reparations as long as the United States asserts its secrets doctrine.
Mohammed Saad Iqbal Madni	Hands bound/shackled; clothing sliced/torn off; forced, thrown, chained into planes; painfully physically restricted, strapped down; physically beaten	100,000 Euros and an effective investigation of the circumstances of extraordinary rendition and torture	\$30,000 (USD) to the victim and \$5,000 to next of kin for their suffering. Medical and psychological care for the victim and their next of kin. Investigation and prosecution of those responsible. Publish the judgment online and in print. Public acknowledgement of responsibility by high-ranking U.S., NC. Johnston County, and Aero Contractors officials, including apology. Legislative action to prevent perpetrators from impunity by limiting the scope of the State Secrets Doctrine. Memorial to victims of ER&T.	(1) A 10-year imprisonment to the CIA agents and directors and the employees of the Aero Contractors involved in the rendition program; (2) a national compensation fund that covers physical and psychological damages, economic loss, loss of opportunities, loss of fulfillment, arbitrary deprivation of liberty, and disruption of family life; (3) provision of medical and psychological treatments to the victims accompanied by training of the treatment providers; (4) a formal national apology delivered by the US President on behalf of the US government acknowledging the torture committed under CIA's rendition program and admitting torture as a human rights violation (the apology shall be nationally broadcast and victims shall be invited to hear the apology in person; the apology shall include a detailed description of what the CIA agents have done, specify the purpose of the apology, guarantee the cessation of the rendition program and non-repetition, and set a specific plan to achieve reconciliation of the whole nation; the apology shall be carefully drafted to avoid dehumanization of the victims and to avoid any excuse or diversion to other national issues that do not focus on victim rehabilitation); (5) creation of a national Sorry Day and memorials to commemorate the victims of the rendition program; and (6) an order requiring CIA to make all the documents related to the rendition program publicly available and requiring the U.S. government to devote a certain amount of money to Library of Congress and National Library of Education for copying and preservation of the documents and for development of oral history projects.	(1) Imprisonment to life to the CIA agents and directors and the employees of the Aero Contractors involved in the rendition program; (2) £500,000 compensation to the victim's family; (4) governmental funding in medical and psychological research on torture treatments; (5) a formal apology personally delivered to the victim as well as announced publicly; and (6) construction of memorials commemorating the victim.	Compensation reaching up to \$347,890 and potentially a residence permit if the individual is seeking asylum in Sweden.	Compensation amounting to \$10.5 million in damages and necessary legal fees (possibly reaching \$1 million). Additionally, an official apology from the Canadian government.	Although these violations violate international, federal, and state law, U.S. courts are unlikely to issue reparations as long as the United States asserts its privilege under the state secrets doctrine.
Khaled Sheikh Mohamed	Hands bound/shackled; painful forced insertion of suppositories and forced enemas (akin to sexual assault)	100,000 Euros and an effective investigation of the circumstances of extraordinary rendition and torture	\$30,000 (USD) to the victim and \$5,000 to next of kin for their suffering. Medical and psychological care for the victim and their next of kin. Investigation and prosecution of those responsible. Publish the judgment online and in print. Public acknowledgement of responsibility by high-ranking U.S., NC. Johnston County, and Aero Contractors officials, including apology. Legislative action to prevent perpetrators from impunity by limiting the scope of the State Secrets Doctrine. Memorial to victims of ER&T.	(1) A 20-year imprisonment to the CIA agents and directors and the employees of the Aero Contractors involved in the rendition program; (2) a national compensation fund that covers physical and psychological damages, economic loss, loss of opportunities, loss of fulfillment, arbitrary deprivation of liberty, and disruption of family life; (3) provision of medical and psychological treatments to the victims accompanied by training of the treatment providers; (4) a formal national apology delivered by the US President on behalf of the US government acknowledging the torture committed under CIA's rendition program and admitting torture as a human rights violation (the apology shall be nationally broadcast and victims shall be invited to hear the apology in person; the apology shall include a detailed description of what the CIA agents have done, specify the purpose of the apology, guarantee the cessation of the rendition program and non-repetition, and set a specific plan to achieve reconciliation of the whole nation; the apology shall be carefully drafted to avoid dehumanization of the victims and to avoid any excuse or diversion to other national issues that do not focus on victim rehabilitation); (5) creation of a national Sorry Day and memorials to commemorate the victims of the rendition program; and (6) an order requiring CIA to make all the documents related to the rendition program publicly available and requiring the U.S. government to devote a certain amount of money to Library of Congress and National Library of Education for copying and preservation of the documents and for development of oral history projects.	(1) Imprisonment to life to the CIA agents and directors and the employees of the Aero Contractors involved in the rendition program; (2) £500,000 compensation to the victim's family; (4) governmental funding in medical and psychological research on torture treatments; (5) a formal apology personally delivered to the victim as well as announced publicly; and (6) construction of memorials commemorating the victim.	Compensation reaching up to \$347,890 and potentially a residence permit if the individual is seeking asylum in Sweden.	Compensation amounting to \$10.5 million in damages and necessary legal fees (possibly reaching \$1 million). Additionally, an official apology from the Canadian government.	Reparations are unlikely. Currently detained at Guantánamo Bay detention camp; case pending before the United States Military Commission

Victim	Torture Subjected To	European Court of Human Rights	Inter-American System	Australia	United Kingdom	Sweden	Canada	United States
Mohammed El-Zari	Clothing sliced/torn off; sexually assaulted/raped; interrogated with use of electric shocks to the genitals, nipples, and ears	100,000 Euros and an effective investigation of the circumstances of extraordinary rendition and torture	\$30,000 (USD) to the victim and \$5,000 to next of kin for their suffering. Medical and psychological care for the victim and their next of kin. Investigation and prosecution of those responsible. Publish the judgment online and in print. Public acknowledgement of responsibility by high-ranking U.S., NC. Johnston County, and Aero Contractors officials, including apology. Legislative action to prevent perpetrators from impunity by limiting the scope of the State Secrets Doctrine. Memorial to victims of ER&T.	(1) A 20-year imprisonment to the CIA agents and directors and the employees of the Aero Contractors involved in the rendition program; (2) a national compensation fund that covers physical and psychological damages, economic loss, loss of opportunities, loss of fulfillment, arbitrary deprivation of liberty, and disruption of family life; (3) provision of medical and psychological treatments to the victims accompanied by training of the treatment providers; (4) a formal national apology delivered by the US President on behalf of the US government acknowledging the torture committed under CIA's rendition program and admitting torture as a human rights violation (the apology shall be nationally broadcast and victims shall be invited to hear the apology in person; the apology shall include a detailed description of what the CIA agents have done, specify the purpose of the apology, guarantee the cessation of the rendition program and non-repetition, and set a specific plan to achieve reconciliation of the whole nation; the apology shall be carefully drafted to avoid dehumanization of the victims and to avoid any excuse or diversion to other national issues that do not focus on victim rehabilitation); (5) creation of a national Sorry Day and memorials to commemorate the victims of the rendition program; and (6) an order requiring CIA to make all the documents related to the rendition program publicly available and requiring the U.S. government to devote a certain amount of money to Library of Congress and National Library of Education for copying and preservation of the documents and for development of oral history projects.	(1) Imprisonment to life to the CIA agents and directors and the employees of the Aero Contractors involved in the rendition program; (2) £500,000 compensation to the victim; (3) bereavement payments to the victim's family; (4) governmental funding in medical and psychological research on torture treatments; (5) a formal apology personally delivered to the victim as well as announced publicly; and (6) construction of memorials commemorating the victim.	Sweden granted El-Zari with a permanent residence permit and compensation in the amount of 3,160,000 Swedish kronor (approximately \$347,890 United States dollars)	Compensation amounting to \$10.5 million in damages and necessary legal fees (possibly reaching \$1 million). Additionally, an official apology from the Canadian government.	Although these violations violate international, federal, and state law, U.S. courts are unlikely to issue reparations as long as the United States asserts its privilege under the state secrets doctrine.
Fatima Bouchar* * Ms. Bouchar was the only woman subjected to the ER and torture program. Her captors were aware that she was pregnant.	While four months pregnant, captured, interrogated, and tortured to the point that her baby was struggling to survive; blindfolded and made to wear ear defenders and thus suffered extreme sensory deprivation; plastic ties bound her legs from her ankles to her knees and cuffed her wrists, chained to the wall in her cell by her wrist and opposite ankle; barely able to sit or lie down on the floor, and could not move	100,000 Euros and an effective investigation of the circumstances of extraordinary rendition and torture	\$30,000 (USD) to the victim and \$5,000 to next of kin for their suffering. Medical and psychological care for the victim and their next of kin. Investigation and prosecution of those responsible. Publish the judgment online and in print. Public acknowledgement of responsibility by high-ranking U.S., NC. Johnston County, and Aero Contractors officials, including apology. Legislative action to prevent perpetrators from impunity by limiting the scope of the State Secrets Doctrine. Memorial to victims of ER&T.	(1) A 15-year imprisonment to the CIA agents and directors and the employees of the Aero Contractors involved in the rendition program; (2) a national compensation fund that covers physical and psychological damages, economic loss, loss of opportunities, loss of fulfillment, arbitrary deprivation of liberty, and disruption of family life; (3) provision of medical and psychological treatments to the victims accompanied by training of the treatment providers; (4) a formal national apology delivered by the US President on behalf of the US government acknowledging the torture committed under CIA's rendition program and admitting torture as a human rights violation (the apology shall be nationally broadcast and victims shall be invited to hear the apology in person; the apology shall include a detailed description of what the CIA agents have done, specify the purpose of the apology, guarantee the cessation of the rendition program and non-repetition, and set a specific plan to achieve reconciliation of the whole nation; the apology shall be carefully drafted to avoid dehumanization of the victims and to avoid any excuse or diversion to other national issues that do not focus on victim rehabilitation); (5) creation of a national Sorry Day and memorials to commemorate the victims of the rendition program; and (6) an order requiring CIA to make all the documents related to the rendition program publicly available and requiring the U.S. government to devote a certain amount of money to Library of Congress and National Library of Education for copying and preservation of the documents and for development of oral history projects.	(1) Imprisonment to life to the CIA agents and directors and the employees of the Aero Contractors involved in the rendition program; (2) £500,000 compensation to the victim's family; (4) governmental funding in medical and psychological research on torture treatments; (5) a formal apology personally delivered to the victim as well as announced publicly; and (6) construction of memorials commemorating the victim.	Compensation reaching up to \$347,890 and potentially a residence permit if the individual is seeking asylum in Sweden.	Compensation amounting to \$10.5 million in damages and necessary legal fees (possibly reaching \$1 million). Additionally, an official apology from the Canadian government.	Although these violations violate international, federal, and state law, U.S. courts are unlikely to issue reparations as long as the United States asserts its privilege under the state secrets doctrine.
Maher Arar	Beaten; whipped with an electrical cable; threatened with more torture; forced to listen to others being tortured; held in an extremely small cell for ten months	100,000 Euros and an effective investigation of the circumstances of extraordinary rendition and torture	\$30,000 (USD) to the victim and \$5,000 to next of kin for their suffering. Medical and psychological care for the victim and their next of kin. Investigation and prosecution of those responsible. Publish the judgment online and in print. Public acknowledgement of responsibility by high-ranking U.S., NC. Johnston County, and Aero Contractors officials, including apology. Legislative action to prevent perpetrators from impunity by limiting the scope of the State Secrets Doctrine. Memorial to victims of ER&T.	(1) A 15-year imprisonment to the CIA agents and directors and the employees of the Aero Contractors involved in the rendition program; (2) a national compensation fund that covers physical and psychological damages, economic loss, loss of opportunities, loss of fulfillment, arbitrary deprivation of liberty, and disruption of family life; (3) provision of medical and psychological treatments to the victims accompanied by training of the treatment providers; (4) a formal national apology delivered by the US President on behalf of the US government acknowledging the torture committed under CIA's rendition program and admitting torture as a human rights violation (the apology shall be nationally broadcast and victims shall be invited to hear the apology in person; the apology shall include a detailed description of what the CIA agents have done, specify the purpose of the apology, guarantee the cessation of the rendition program and non-repetition, and set a specific plan to achieve reconciliation of the whole nation; the apology shall be carefully drafted to avoid dehumanization of the victims and to avoid any excuse or diversion to other national issues that do not focus on victim rehabilitation); (5) creation of a national Sorry Day and memorials to commemorate the victims of the rendition program; and (6) an order requiring CIA to make all the documents related to the rendition program publicly available and requiring the U.S. government to devote a certain amount of money to Library of Congress and National Library of Education for copying and preservation of the documents and for development of oral history projects.	(1) Imprisonment to life to the CIA agents and directors and the employees of the Aero Contractors involved in the rendition program; (2) £500,000 compensation to the victim's family; (4) governmental funding in medical and psychological research on torture treatments; (5) a formal apology personally delivered to the victim as well as announced publicly; and (6) construction of memorials commemorating the victim.	Compensation reaching up to \$347,890 and potentially a residence permit if the individual is seeking asylum in Sweden.	Canada awarded Maher Arar with \$10.5 million for damages and an additional \$1 million to cover legal fees. In addition, Maher Arar received an official apology from the Canadian government.	United States' lawmakers provided Maher Arar with an unofficial apology. No compensation or official apology has been awarded.

Victim	Torture Subjected To	European Court of Human Rights	Inter-American System	Australia	United Kingdom	Sweden	Canada	United States
Sharqawi Abdu Ali Hajj	While detained by General Intelligence Department in Jordan, subjected to beating, electric shocks; tortured with dogs and snakes; threatened with rape; falaqa (Jordanian torture method in which prisoners are given extended beatings on the bottoms of their feet); threatened with additional body harm ("we will make you see death"). Currently detained in Guantanamo without charge.	100,000 Euros and an effective investigation of the circumstances of extraordinary rendition and torture	\$30,000 (USD) to the victim and \$5,000 to next of kin for their suffering. Medical and psychological care for the victim and their next of kin. Investigation and prosecution of those responsible. Publish the judgment online and in print. Public acknowledgement of responsibility by high-ranking U.S., NC. Johnston County, and Aero Contractors officials, including apology. Legislative action to prevent perpetrators from impunity by limiting the scope of the State Secrets Doctrine. Memorial to victims of ER&T.	(1) A 15-year imprisonment to the CIA agents and directors and the employees of the Aero Contractors involved in the rendition program; (2) a national compensation fund that covers physical and psychological damages, economic loss, loss of opportunities, loss of fulfillment, arbitrary deprivation of liberty, and disruption of family life; (3) provision of medical and psychological treatments to the victims accompanied by training of the treatment providers; (4) a formal national apology delivered by the US President on behalf of the US government acknowledging the torture committed under CIA's rendition program and admitting torture as a human rights violation (the apology shall be nationally broadcast and victims shall be invited to hear the apology in person; the apology shall include a detailed description of what the CIA agents have done, specify the purpose of the apology, guarantee the cessation of the rendition program and non-repetition, and set a specific plan to achieve reconciliation of the whole nation; the apology shall be carefully drafted to avoid dehumanization of the victims and to avoid any excuse or diversion to other national issues that do not focus on victim rehabilitation); (5) creation of a national Sorry Day and memorials to commemorate the victims of the rendition program; and (6) an order requiring CIA to make all the documents related to the rendition program publicly available and requiring the U.S. government to devote a certain amount of money to Library of Congress and National Library of Education for copying and preservation of the documents and for development of oral history projects.	(1) Imprisonment to life to the CIA agents and directors and the employees of the Aero Contractors involved in the rendition program; (2) £500,000 compensation to the victim; (3) bereavement payments to the victim's family; (4) governmental funding in medical and psychological research on torture treatments; (5) a formal apology personally delivered to the victim as well as announced publicly; and (6) construction of memorials commemorating the victim.	Compensation reaching up to \$347,890 and potentially a residence permit if the individual is seeking asylum in Sweden.	Compensation reaching up to \$10.5 million in damages and necessary legal fees (possibly reaching \$1 million). Additionally, an official apology from the Canadian government.	Although these violations violate international, federal, and state law, U.S. courts are unlikely to issue reparations as long as the United States asserts its privilege under the state secrets doctrine.
Bisher al-Rawi	Confined to a tiny cell with no toilet or running water; clothes cut off, handcuffed; forced to wear ear defenders; hooded which impaired breathing, sight, and hearing; feet shackled 24 hours a day; drug while handcuffed and feet shackled, confined to a stretcher without being able to move; thrown down stairs, into a vehicle, on to the ground; prolonged isolation and sleep deprivation; kept in the dark 24 hours a day; threatened with death; subjected to extremely cold and hot temperatures; forced to listen to very loud music or recorded voices; food and water deprivation; beaten; forced standing for 24 hours; kicked	100,000 Euros and an effective investigation of the circumstances of extraordinary rendition and torture	\$30,000 (USD) to the victim and \$5,000 to next of kin for their suffering. Medical and psychological care for the victim and their next of kin. Investigation and prosecution of those responsible. Publish the judgment online and in print. Public acknowledgement of responsibility by high-ranking U.S., NC. Johnston County, and Aero Contractors officials, including apology. Legislative action to prevent perpetrators from impunity by limiting the scope of the State Secrets Doctrine. Memorial to victims of ER&T.	(1) A 10-year imprisonment to the CIA agents and directors and the employees of the Aero Contractors involved in the rendition program; (2) a national compensation fund that covers physical and psychological damages, economic loss, loss of opportunities, loss of fulfillment, arbitrary deprivation of liberty, and disruption of family life; (3) provision of medical and psychological treatments to the victims accompanied by training of the treatment providers; (4) a formal national apology delivered by the US President on behalf of the US government acknowledging the torture committed under CIA's rendition program and admitting torture as a human rights violation (the apology shall be nationally broadcast and victims shall be invited to hear the apology in person; the apology shall include a detailed description of what the CIA agents have done, specify the purpose of the apology, guarantee the cessation of the rendition program and non-repetition, and set a specific plan to achieve reconciliation of the whole nation; the apology shall be carefully drafted to avoid dehumanization of the victims and to avoid any excuse or diversion to other national issues that do not focus on victim rehabilitation); (5) creation of a national Sorry Day and memorials to commemorate the victims of the rendition program; and (6) an order requiring CIA to make all the documents related to the rendition program publicly available and requiring the U.S. government to devote a certain amount of money to Library of Congress and National Library of Education for copying and preservation of the documents and for development of oral history projects.	(1) Imprisonment to life to the CIA agents and directors and the employees of the Aero Contractors involved in the rendition program; (2) £500,000 compensation to the victim; (3) bereavement payments to the victim's family; (4) governmental funding in medical and psychological research on torture treatments; (5) a formal apology personally delivered to the victim as well as announced publicly; and (6) construction of memorials commemorating the victim.	Compensation reaching up to \$347,890 and potentially a residence permit if the individual is seeking asylum in Sweden.	Compensation reaching up to \$10.5 million in damages and necessary legal fees (possibly reaching \$1 million). Additionally, an official apology from the Canadian government.	Although these violations violate international, federal, and state law, U.S. courts are unlikely to issue reparations as long as the United States asserts its privilege under the state secrets doctrine.
Abou ElKassim Britel	In Pakistan: beatings (sometimes with cricket bats), sleep deprivation, suspension from walls/ceiling, binding of hands and feet, lack of access to a toilet, threatened torture of his family members; During extraordinary rendition by United States: handcuffed, blindfolded, clothing cut off, dressed in diaper, hit, kicked, mouth taped shut; In Morocco: solitary confinement, dietary deprivation, threats of castration and anal penetration	100,000 Euros and an effective investigation of the circumstances of extraordinary rendition and torture	\$30,000 (USD) to the victim and \$5,000 to next of kin for their suffering. Medical and psychological care for the victim and their next of kin. Investigation and prosecution of those responsible. Publish the judgment online and in print. Public acknowledgement with apology by U.S. political and corporate entities and those responsible in Pakistan and Morocco. Legislative action in the U.S., Pakistan, and Morocco. Memorial to victims of ER&T.	(1) A 15-year imprisonment to the CIA agents and directors and the employees of the Aero Contractors involved in the rendition program; (2) a national compensation fund that covers physical and psychological damages, economic loss, loss of opportunities, loss of fulfillment, arbitrary deprivation of liberty, and disruption of family life; (3) provision of medical and psychological treatments to the victims accompanied by training of the treatment providers; (4) a formal national apology delivered by the US President on behalf of the US government acknowledging the torture committed under CIA's rendition program and admitting torture as a human rights violation (the apology shall be nationally broadcast and victims shall be invited to hear the apology in person; the apology shall include a detailed description of what the CIA agents have done, specify the purpose of the apology, guarantee the cessation of the rendition program and non-repetition, and set a specific plan to achieve reconciliation of the whole nation; the apology shall be carefully drafted to avoid dehumanization of the victims and to avoid any excuse or diversion to other national issues that do not focus on victim rehabilitation); (5) creation of a national Sorry Day and memorials to commemorate the victims of the rendition program; and (6) an order requiring CIA to make all the documents related to the rendition program publicly available and requiring the U.S. government to devote a certain amount of money to Library of Congress and National Library of Education for copying and preservation of the documents and for development of oral history projects.	(1) Imprisonment to life to the CIA agents and directors and the employees of the Aero Contractors involved in the rendition program; (2) £500,000 compensation to the victim; (3) bereavement payments to the victim's family; (4) governmental funding in medical and psychological research on torture treatments; (5) a formal apology personally delivered to the victim as well as announced publicly; and (6) construction of memorials commemorating the victim.	Compensation reaching up to \$347,890 and potentially a residence permit if the individual is seeking asylum in Sweden.	Compensation amounting to \$10.5 million in damages and necessary legal fees (possibly reaching \$1 million). Additionally, an official apology from the Canadian government.	Although these violations violate international, federal, and state law, U.S. courts are unlikely to issue reparations as long as the United States asserts its privilege under the state secrets doctrine.

Victim	Torture Subjected To	European Court of Human Rights	Inter-American System	Australia	United Kingdom	Sweden	Canada	United States
Mohammed al-Asad	While detained in a secret CIA prison in Djibouti in solitary confinement, subjected to sensory overload in the form of constant loud music, punitive dietary manipulation, artificial light twenty-four hours a day, exposure to cold weather, and beatings	100,000 Euros and an effective investigation of the circumstances of extraordinary rendition and torture	\$30,000 (USD) to the victim and \$5,000 to next of kin for their suffering. Medical and psychological care for the victim and their next of kin. Investigation and prosecution of those responsible. Publish the judgment online and in print. Public acknowledgement of responsibility by high-ranking U.S., NC. Johnston County, and Aero Contractors officials, including apology. Legislative action to prevent perpetrators from impunity by limiting the scope of the State Secrets Doctrine. Memorial to victims of ER&T.	(1) A 10-year imprisonment to the CIA agents and directors and the employees of the Aero Contractors involved in the rendition program; (2) a national compensation fund that covers physical and psychological damages, economic loss, loss of opportunities, loss of fulfillment, arbitrary deprivation of liberty, and disruption of family life; (3) provision of medical and psychological treatments to the victims accompanied by training of the treatment providers; (4) a formal national apology delivered by the US President on behalf of the US government acknowledging the torture committed under CIA's rendition program and admitting torture as a human rights violation (the apology shall be nationally broadcast and victims shall be invited to hear the apology in person; the apology shall include a detailed description of what the CIA agents have done, specify the purpose of the apology, guarantee the cessation of the rendition program and non-repetition, and set a specific plan to achieve reconciliation of the whole nation; the apology shall be carefully drafted to avoid dehumanization of the victims and to avoid any excuse or diversion to other national issues that do not focus on victim rehabilitation); (5) creation of a national Sorry Day and memorials to commemorate the victims of the rendition program; and (6) an order requiring CIA to make all the documents related to the rendition program publicly available and requiring the U.S. government to devote a certain amount of money to Library of Congress and National Library of Education for copying and preservation of the documents and for development of oral history projects.	(1) Imprisonment to life to the CIA agents and directors and the employees of the Aero Contractors involved in the rendition program; (2) £500,000 compensation to the victim; (3) bereavement payments to the victim's family; (4) governmental funding in medical and psychological research on torture treatments; (5) a formal apology personally delivered to the victim as well as announced publicly; and (6) construction of memorials commemorating the victim.	Compensation reaching up to \$347,890 and potentially a residence permit if the individual is seeking asylum in Sweden.	Compensation amounting to \$10.5 million in damages and necessary legal fees (possibly reaching \$1 million). Additionally, an official apology from the Canadian government.	Although these violations violate international, federal, and state law, U.S. courts are unlikely to issue reparations as long as the United States asserts its privilege under the state secrets doctrine.
Yunus Rahmatullah	Captured by British forces, hooded and thrown into a military vehicle, and transferred to a secret detention center. Held in detention for ten years.	100,000 Euros and an effective investigation of the circumstances of extraordinary rendition and torture	\$30,000 (USD) to the victim and \$5,000 to next of kin for their suffering. Medical and psychological care for the victim and their next of kin. Investigation and prosecution of those responsible. Publish the judgment online and in print. Public acknowledgement of responsibility by high-ranking U.S., NC. Johnston County, and Aero Contractors officials, including apology. Legislative action to prevent perpetrators from impunity by limiting the scope of the State Secrets Doctrine. Memorial to victims of ER&T.	(1) A 10-year imprisonment to the CIA agents and directors and the employees of the Aero Contractors involved in the rendition program; (2) a national compensation fund that covers physical and psychological damages, economic loss, loss of opportunities, loss of fulfillment, arbitrary deprivation of liberty, and disruption of family life; (3) provision of medical and psychological treatments to the victims accompanied by training of the treatment providers; (4) a formal national apology delivered by the US President on behalf of the US government acknowledging the torture committed under CIA's rendition program and admitting torture as a human rights violation (the apology shall be nationally broadcast and victims shall be invited to hear the apology in person; the apology shall include a detailed description of what the CIA agents have done, specify the purpose of the apology, guarantee the cessation of the rendition program and non-repetition, and set a specific plan to achieve reconciliation of the whole nation; the apology shall be carefully drafted to avoid dehumanization of the victims and to avoid any excuse or diversion to other national issues that do not focus on victim rehabilitation); (5) creation of a national Sorry Day and memorials to commemorate the victims of the rendition program; and (6) an order requiring CIA to make all the documents related to the rendition program publicly available and requiring the U.S. government to devote a certain amount of money to Library of Congress and National Library of Education for copying and preservation of the documents and for development of oral history projects.	(1) Imprisonment to life to the CIA agents and directors and the employees of the Aero Contractors involved in the rendition program; (2) £500,000 compensation to the victim; (3) bereavement payments to the victim's family; (4) governmental funding in medical and psychological research on torture treatments; (5) a formal apology personally delivered to the victim as well as announced publicly; and (6) construction of memorials commemorating the victim.	Compensation reaching up to \$347,890 and potentially a residence permit if the individual is seeking asylum in Sweden.	Compensation amounting to \$10.5 million in damages and necessary legal fees (possibly reaching \$1 million). Additionally, an official apology from the Canadian government.	Although these violations violate international, federal, and state law, U.S. courts are unlikely to issue reparations as long as the United States asserts its privilege under the state secrets doctrine.
Hassan bin Attash	Captured when he was only 16 years old; interrogated while blindfolded; punched in the face and stomach and hit with a stick; deprived of sleep; held in a total darkness; continuously blasted with heavy-metal and rap music; interrogated naked with wrists chained behind him to a wall; sprayed with cold water; hung by his wrists from a bar above his head with his toes just reaching the floor.	100,000 Euros and an effective investigation of the circumstances of extraordinary rendition and torture	\$30,000 (USD) to the victim and \$5,000 to next of kin for their suffering. Medical and psychological care for the victim and their next of kin. Investigation and prosecution of those responsible. Publish the judgment online and in print. Public acknowledgement of responsibility by high-ranking U.S., NC. Johnston County, and Aero Contractors officials, including apology. Legislative action to prevent perpetrators from impunity by limiting the scope of the State Secrets Doctrine. Memorial to victims of ER&T.	(1) A 15-year imprisonment to the CIA agents and directors and the employees of the Aero Contractors involved in the rendition program; (2) a national compensation fund that covers physical and psychological damages, economic loss, loss of opportunities, loss of fulfillment, arbitrary deprivation of liberty, and disruption of family life; (3) provision of medical and psychological treatments to the victims accompanied by training of the treatment providers; (4) a formal national apology delivered by the US President on behalf of the US government acknowledging the torture committed under CIA's rendition program and admitting torture as a human rights violation (the apology shall be nationally broadcast and victims shall be invited to hear the apology in person; the apology shall include a detailed description of what the CIA agents have done, specify the purpose of the apology, guarantee the cessation of the rendition program and non-repetition, and set a specific plan to achieve reconciliation of the whole nation; the apology shall be carefully drafted to avoid dehumanization of the victims and to avoid any excuse or diversion to other national issues that do not focus on victim rehabilitation); (5) creation of a national Sorry Day and memorials to commemorate the victims of the rendition program; and (6) an order requiring CIA to make all the documents related to the rendition program publicly available and requiring the U.S. government to devote a certain amount of money to Library of Congress and National Library of Education for copying and preservation of the documents and for development of oral history projects.	(1) Imprisonment to life to the CIA agents and directors and the employees of the Aero Contractors involved in the rendition program; (2) £500,000 compensation to the victim; (3) bereavement payments to the victim's family; (4) governmental funding in medical and psychological research on torture treatments; (5) a formal apology personally delivered to the victim as well as announced publicly; and (6) construction of memorials commemorating the victim.			Although these violations violate international, federal, and state law, U.S. courts are unlikely to issue reparations as long as the United States asserts its privilege under the state secrets doctrine.