

**TO THE HONORABLE MEMBERS OF THE
INTER-AMERICAN COMMISSION ON HUMAN RIGHTS,
ORGANIZATION OF AMERICAN STATES**

KINI COSMA

Petitioner,

on behalf of Kini Cosma, Nicholas J. Nelms, Matthew C. Nelms, *et al.*

United States Citizens,

Victims,

v.

THE UNITED STATES OF AMERICA,

Member of the Organization of American States,

Respondents.

**PETITION ALLEGING VIOLATIONS OF THE
HUMAN RIGHTS OF KINI COSMA
ET AL BY THE UNITED STATES OF AMERICA**

This Petition is respectfully presented to this Honorable Commission pursuant to Article 23 of the Rules of Procedure of the Inter-American Commission on Human Rights on behalf of Kini Cosma, *et al.*, United States Citizens, by:

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July 8, 2009

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Alexander v. Oklahoma, 382 F.3d 1206 (10th Cir. 2004)	
Alexander v. Oklahoma, 391 F.3d 1155 (10th Cir. 2004)	
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INTERATIONAL JURISPRUDENCE AND MATERIALS

Commentaries to the Draft Articles on Responsibility of States for internationally wrongful acts, U.N. GAOR, 56th Sess., Supp. No. 10, U.N. Doc. A/56/10 (2001) passim

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Rainbow Warrior Arbitration (New Zealand/ France), UNRIAA 217 (1990) 39

Report of the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance, U.N. Doc. A/CONF.198/12 (2001) passim

Revised Set of basic principles and guidelines on the right to reparation for victims of gross violations of human rights and humanitarian law prepared by Theo van Boven pursuant to Sub-Commission decision 1995/117, U.N. Doc. E/CN.4/Sub.2/1996/17 (1996) 32

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Oklahoma Commission to Study the Tulsa Race riot of
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<http://www.ok-history.mus.ok.us/trrc/freport.pdf>
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Smith, Gerald Jerome, Note, Constitutionality of States’
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Okla. City U. L. Rev. 451 (2002)passim

Staples, Brent, Unearthing a riot, N.Y. Times Magazine,
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OTHER

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I. INTRODUCTION

1. This Petition will be based on all, but not limited to, all of Petitioners complaints since 1994, supporting reports, documents, records, memorandum of points and authorities, declarations, and sworn testimonies of all associated proceedings, and Internet claims and evidence uploaded and posted at <http://kinispolarbear.bravehost.com>

2. Petitioner contends she has suffered violations of Tulsa-Greenwood Race Riot Claims Accountability Act of 2007, violations of the Convention Against Torture and Other Cruel, Inhuman Or Degrading Treatment or Punishment, violations of the Committee on the Elimination of Discrimination against Women, violations of the International Covenant on Civil and Political Rights, violations of the American Declaration of the Rights and Duties of Man.

3. This Petitioner seeks redress under the mandate of this Inter-American Commission on Human Rights and Organization of American States; under the mandate of 1503 Procedure by the Commission On Human Rights and the Commission on the Status of Women to examine a consistent pattern and reliably attested violations of gross human rights and fundamental freedoms originating from the Western part of the United States, specifically the County of Napa, California. In addition, Petitioner seeks redress under the procedure for Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women and the International Covenant on Civil and Political Rights at the United Nations Secretariat and Treaties as well as the Commission Branch.

4. This Petition is submitted by Kini Cosma (“**Petitioner**”) on behalf of Kini Cosma, survivor of a May 24, 1996 criminal conviction from the County of Napa, California. This has resulted in further detrimental defamation, criminal slander and libel, until this current time in history. Petitioner was profiled as a lesbian¹ in 1989 and was criminalized as a female “stalker” and “sex offender.”

5. Despite monolithic claims submitted to every level of city and state courts and local jurisdictions, Appellate Courts, Federal District Courts, the United States Court of Appeals for the Ninth Circuit, and the Federal Claims Court in Washington, DC (Hereinafter referred to as the “**Courts**”), injustices have surmounted causing Petitioner to be forced by the United States of America to be used as a human battering instrument and a human trafficking victim that has included other gender and sex orientation visceral bias and discriminations (Hereinafter referred to as “**rampage(s)**.”)

6. Petitioner is the natural and biological mother of Nicholas Jordan Nelms, and Matthew Christian Nelms *et al.*, who may or may not be the living survivors or descendants of that rampage (collectively, “**Victims**”).

7. Petitioner has carried through an estimated \$2 million (U.S. dollars) of long

¹ As noted, lynchings against gay people were common throughout United States during this time and bias tensions are regularly running high for same sex marriages today.

dedicated labor seeking reparations while surviving under extreme and extraordinary conditions, hardships, circumstances of excessive and cruel and unusual punishment, and official denial of culpability.

8. Petitioner remains victimized by tools of injustice: silence and fatal reprisal. While this rampage continues to deteriorate Petitioners' health, claims filed in the Courts have languished and have fallen on deaf ears with not even a cursory glance at the merits.

9. As a result, property has been destroyed, lost, and unlawfully seized—from the neighborhoods of Napa, California to Susanville, California, and Klamath Falls, Oregon in the years since Petitioner and Victims have continued to suffer from the denial of their right to resort to the Courts for an effective remedy.

10. Petitioner's right to due process and equality before the law have not been without distinction as to *inter alia*, gender, sex orientation. Petitioner contends she and Victims are entitled to trial and compensation for the terrible devastation caused and fueled by the stalker/sex offender conviction without being subjected to the arbitrary dictates of law enforcement.

II.

A BRIEF DESCRIPTION OF JURISDICTIONAL ISSUES

11. All claims brought herein relate to alleged violations of the United States Constitution and various federal statutes, including 42 U.S.C. §§1985 and 1981. The claims were brought by virtue of 42 U.S.C. §1983.

12. The Courts had jurisdiction to entertain this adversary action relating to human trafficking, excessive punishment, torture proceeding pursuant to 22 U.S.C. §7102(8); Human Trafficking. Eighth Amendment of the United States Constitution; Excessive prison sentences, punishment, excessive fines clauses(s) of the Eighth Amendment. 42 U.S.C. §§1985 and 1981 with all claims being brought by virtue of the Civil Rights Act of 1871, 42 U.S.C. §1983. The Ninth Circuit Court of Appeals had jurisdiction to entertain this appeal pursuant to 28 U.S.C. §1291. Final Judgment was originally entered on May 30, 2008. A timely Notice of Appeal was filed on July 8, 2008. These cases were again dismissed for, *inter, alia*, lack of jurisdiction.

13. Further, Petitioner asserts denial of equal protection under the law, violations of procedural due process with regard to access to the courts, administrative hearings, conspiracy under 42 U.S.C. §§1985 and 1981 for the purpose of eroding all of Petitioner's rights in the name of national security.

14. Respondents, Napa County and Lassen County Courts, encouraged the use of other Courts in the United States as a forum to engage in abuse of process and power to menace, alarm and provoke malicious mischief, illegal irregularities and inconsistencies putting Petitioner in an utmost and extreme vulnerable position so that she would be dependent on and have to service American men.

16 This perversion of justice has led California and Oregon state commissioners, city officials, law enforcement and their "**deputized**" hooligans to engage in the use of state terror inappropriate property acquisition, severe harassment, menacing, and retaliation, all forms of mob lynching to continue to blame Petitioner for other atrocities.

III.

STATEMENT OF RELATED CASES

17. USCA 98-16415; USCA 98-16672; USCA 98-16673; USDC 98-00819; USDC98-00618; USDC C-04-0610 SBA; USDC CV-F-97-5994 (Napa & County Superior Ct); Court of Appeal-3rd Appell. Dist. 3 Civil C028174; 3 Civil C031259; USDC Civ. S-02-1704-WBS GGH-PS No. MIS -0236 WBS GGH-PS; 9th Circuit Docket No: 03-15084; USDC-CES 04-70711; CV07-06376 SBA; 04-70004; CR-S-05-0120-DAD; U.S. Federal Claims 1:05-cv-01201-LAS; Lassen County Superior Consolidated Judicial District Court: Citation No. 03530; Case No. 26T-260-03; JC 38896; TR060989; TR059474; CR018285; TR050932; CR019489; JC36801; TR070589; TR071517; JC38326; CR 26838; Municipal Court of the City of Klamath Falls, State of Oregon: 06-10002506 (Citation 79135, Docket 0610002506); 05-03405-CV; 0504092CV; 0505141CV; 0704069CV; 0704035CV (06-10002506 Muni); Justice Court Case No. 1211/CE08-0358; CE09-0097; 0950; 7215; 7186; 19358, 09-326; Circuit Ct. Associated Cases: 0803782CV; 0803718CV; 0804232CV. (Also see attachments)

IV.

STATEMENT OF FACTS

18. This case management statement alleges that the slander and libels of the criminal conviction as a female "sex offender" and "stalker" were inherently invalid primarily because they were obtained through fraud at the state court level through inequitable conduct originated by the city police of Napa, California.

19. This exercise of authority was unnecessarily oppressive; connoting purposeful action and conduct motivated by a discriminatory² purpose. The malicious use of this process has exposed Petitioner to public scorn, hatred, lewdness, fighting words used to inflict injury, contempt and ridicule; conduct which is willful, flagrant, shameless, and which shows a moral indifference to the opinions of the good and respectable members of the community..

20. Petitioner continues to declare this an absolute misappropriation of justice of the extremist kind. Witnesses after witnesses were called to testify that *she* too "was being stalked" by Petitioner. **It was at this point, ALL legal activities Petitioner was involved in became illegal.**

² The Convention defines discrimination against women as "...any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field."

21. The focus in this brief is about a women enslaved into sex for trade by harassment and the malicious abuse of legal process while being battered and subjected to extreme cruelty: She is a victim of human trafficking in the United States, robbed of her body, dignity and freedom.

22. This monster can be hard to detect because it defies categorization. The resulting collage is sinister but revealing, enabling a targeted response for these uncomfortable truths.

23. These offenses against justice have injured Petitioner and she has suffered losses by judgment, orders, and decrees of the California and Oregon State justice system. It has operated prejudicially and directly upon her property, pecuniary, and personal rights. It has changed the remedial process of the law into a weapon of oppression.

24. Having dissected the human trafficking drama by the type of exploitation, the sexual orientation and gender of this Petitioner, the profiles of perpetrators, and the source/transit/destination of human cargoes, we can best able to describe the problem, its time trends and space patterns.

25. The pattern is not predicated upon a single act, but consisting of a persistent and continuous course of conduct that has the ultimate effect of rendering authorized violations of the law by public officials and private persons in Susanville, California and Klamath Falls, Oregon, to carry out surmounting travesties of injustice.

26. Petitioner has suffered numerous hardships that have not prohibited travesty free discrimination(s). The prolonged loss of her children and consequential summary punishments; substantial losses of assets for an indeterminate sum; the grand-theft of a rightfully inherited trust estate of \$100k, losses of extensive real and personal property, and the illegal suspension of her California driver's license from the purposeful and malicious government "oversights" related to this originating case.

27. Petitioner contends this loss of personal property is more than an inconsequential aspect of the displacement processes. **All** losses have had a devastating impact on Petitioner already traumatized by an illegal conviction of stalking enhanced with a sex offense. This is a sentence to a life time of horrors of humanity by torture³; negligence and recklessness.

28. As the various discriminations have multiplied, Petitioner had managed to be academically educated and trained to be self-employed for office businesses, horseshoeing, horse-training, welding, and automotive. However, none of these careers have been an option to provide a livelihood due to the expanded hatred and hostile induced workplace, community, and housing environments described throughout all pleadings and the states' illegal suspension of her driver's license.

³ Amnesty International defines torture as "[a]n extreme mental or physical assault on someone who has been rendered defenseless."

29. Due to the seriousness of the offenses and the environmental criminalization, Petitioner is unable to become employed in any field of the workforce that she was trained for. The harassment has been more than intolerable and has gone beyond any form of legal solution.

A.

The Current 1995 Rampage Is Identical In Nature To The 1921 Tulsa Race Riot

30. On January 7, 1994 the California City and County of Napa authorities arrested Kini Cosma, at the time a 40 year-old woman and single mother of two minor sons for allegedly violating a restraining order against a female police officer.

31. Petitioner contends that the restraining order was invalid with massive perjuring lies conducted by Respondent Napa City police sergeant Randy Bowman. Further, Bowman neither had the authority to conduct himself as an attorney of law and was unauthorized⁴ to practice law. This was endorsed by Respondents Napa County Courts for the malicious purpose of invalidating Petitioner's life. Further, the stalker-sex offender status and stigma conviction had been affirmed while under duress, coercion, undue influence.

32. The Superior Court of Napa County abused it's power and discretion by accepting this legal documentation. This tool of injustice detained Petitioner for a time at the dilapidated jail on the top floor of a the Napa County Courthouse later to be released under an illegal plea bargain. (From a misdemeanor to a felony).

33. When Petitioner was released, she recovered her minor children from temporary foster care and was able to legally flee the area. The alleged incident(s) were distorted then propagated by into the community of Placer County, City of Auburn in California by Napa city police sergeant Randy Bowman.

34. Bowman left his Napa jurisdiction to terrorize other female residents in Auburn, California who claimed and became false witnesses that Petitioner was "stalking" them. It was at this time Petitioner realized that ALL legitimate activities became illegal and that any could be used against her to further the damages.

35. Less than one year after Petitioner's initial arrest in Napa, the Placer County Sheriff's Department and Auburn City police mobbed Petitioner and Victims and arrested her for alleged "stalking" other women; violations of Petitioner's probation. Petitioner was entitled to a probation hearing which was mockingly declared a "trial" by Napa County Judge Ronald T.L. Young.

36. Regardless, Petitioner received an illegal stalking conviction enhanced as a sexual predator that invoked the public policy of a form of rampant mob lynching. She had since been forced and expected to work and reside under brutal and inhuman conditions through various discriminations including: gender, sexual orientation discrimination,

⁴ People v *Kevorkian* , unpublished order of the Court of Appeals, entered March 16, 1999 Defendant was not licensed to *practice medicine* in Michigan

workplace discrimination, severe harassment, menacing, and retaliation.

37. With malicious rumors advancing and spreading fast, mobs of homophobic women were becoming all too common and began to gather to involve their violent malevolent men and mean misogynist judges.

38. After approximately 18 months in prison, Petitioner was banished and paroled to Susanville, California where she became a target as a human battering instrument, continually being subjected to physical and psychological assaults by a form of mob rampageers while 33 witnesses watched and the Susanville police drove by without a glance. This occurred while residing at Coldwell Banker properties.

39. This horror was the most brutal of all complete with numerous reports and a simultaneous case⁵ filed under the Federal Eastern District Court⁶ in Sacramento jurisdiction regarding real property and housing.

40. Their actions were discriminatory in both intent and effect. This climate of hatred prevented Petitioner and Victims from obtaining redress for the harms they suffered and from rebuilding in a community.

41. While Coldwell Banker tenants continued to menace Petitioner, law enforcement continued to viscerally instruct occupants and deputized malefactor, Scott Smith, to “Get a Dike, a child molester, and a 'Nazi' Jew.”

42. City and state officials of the Susanville community were aware that local authorities had failed to prevent these mob rampages. They should have believed or reasonably believed that Petitioner’s personal safety depended on protection. Moreover, city and state officials failed to adequately train and supervise those persons whom they deputized and to whom they issued legal authority to disadvantage, demean, and menace Petitioner.

43. During this time, city and state officials engaged in official policy, practice, custom, habit, and usage of denying this woman her equal rights under the law. City and state officials created and condoned a climate of violence against this woman⁷ and other hatred that presented a clear and present danger, led to tragedy, and contributed to the hostile environment of gender and sex orientated motivated suppression.

44. It was during this rampage that Petitioner's California's Driver's license was

⁵ Petitioner filed under 42 U.S. C. §3612 Federal Fair Housing Act of 1968

⁶ Even more egregious, Federal investigators issued an indictment a few years later against Petitioner alleging crimes committed during the rampage.

⁷ On or about February 6, 2005 Petitioner filed a national injunction under the All Writs Act of 28 U.S.C. §1651 of Chapter 111 of Part V; 18 U.S.C. §§2266, &167 Violence Against Women Act (VAWA) Full Faith and Credit Provision. moving Congress, the U.S. Supreme Court and all courts established by Congress to issue all writs necessary or appropriate aid of their respective jurisdictions agreeable to the usages and principle of law, and that an alternative writ or rule nisi (q.v.) may be issued by a judge of a court which has jurisdiction. These documents were returned to Petitioner ignored.

illegally suspended. Petitioner continues to contend she was entitled to an administrative hearing at the California State Department of Motor Vehicles for an alleged vehicle accident before being subjected to an arbitrary arrest in Susanville, California.

45. Respondent Lassen County Grand Juror, Sharon Bertotti and a relative of Assistant Director Joseph Bertotti from the Department of Community Development in Lassen County. She was served numerous reports of the mob rampage occurring in Lassen County, the city of Susanville, State of California.

46. During the rampage while Department of Community Development was involved with the discriminatory seizure of Petitioner's real property declaring "code violations," Bertotti ran herself off a rural highway while traveling and tailgating Petitioner at excessive speeds of 65 miles per hour in a 55 mile per hour zone.

47. While the evidence is paramount, this, *inter, alia*, political rampage has resulted in years and years of Petitioner's driver's license being suspended.

48. Petitioner was never entitled to an administrative hearing by the California Department of Motor Vehicles and the constant runarounds conducted by the systematic abuse have become manifested resulting in, *inter alia*, arbitrary arrests, confiscation of Petitioner's vehicles and other massive damages.

49. Much like the Tulsa Riot of 1921, evictions had ceased and rampageers were brought under control by the Attorney General in California, not because the sex offender charges against her dropped, but rather because she was driven out of the State of California.

50. Further, the same episodes have been duplicated in County of Klamath, Klamath Falls, Oregon by the same form of mob rampages. Consequently, this Petitioner was deliberately displaced numerous times.

51. After the rampages ceased in California, newly "deputized" malevolent citizens were viscerally instructed to disadvantage and demean Petitioner in Klamath Falls, Oregon, to "go out and harass the Dike and the law'll be behind you because of the 1st Amendment, freedom of speech."

52. Again, while being bantered by county code enforcement and the aide of "deputized" hooligans, she was again being used during housing disputes for which resulted in Petitioner's displacement during the freezing elements of winter months.

53. In a recent 2008 case, Petitioner was displaced from housing and as a party of interest in the wrongful interference of her personal property through dominion that caused injury to this Petitioner when she complained of hooligans menacing her while they resided in an illegal structure on the property line, in the immediate vicinity of her guesthouse and office.

54. Petitioner was forced to evacuate within approximately four days in extreme

and excessive circumstances. After nearly collapsing from terror, distress, and the menacing of their “deputized” hooligans, Petitioner was placed in a “set-up internment center” viscerally elicited as “protective custody,” a euphemism for illegal imprisonment, for “mental health evaluation” in another attempt to disadvantage and demean Petitioner.

55. United with imprecise Oregon Health Plan policy, Respondent(s), *et al*, interfere[d] with her chattel, without lawful justification, to deprive this rightful owner of her personal property. And, having everything she owned destroyed on a public curb, the amount in dispute was, again, far more than the monetary value of Petitioner accrued life possessions, which was approximately in the sum of \$15,000.

56. Petitioner’s health prevented her from retrieving much more than the clothes on her back; she didn’t have the strength to move her possessions herself, nor could she afford to hire anyone to move her possessions. Everything from her furniture to her family photographs and undergarments were taken; she was quite literally left with nothing.

57. By the time this rampage had ended, the damage was staggering rendering this Petitioner homeless and forcing her to live under grossly inferior conditions while their “deputized” malevolent citizens and their families were free to live in an illegal structure authorized by the Klamath County regime while Petitioner was again systematically looted.

58. Respondents, Klamath County authorities then traveled around the city putting down Petitioner's efforts to defend herself from the homelessness. In all Petitioner's experience, she has never witnessed such scenes that prevailed in these cities in utter and ruthless defiance of every concept of law and righteousness.

59. The indignity has affronted Petitioner's personality, that has the ultimate effect of rendering intolerance, vulgarity, unmerited reproach, habitual contumely, studied neglect, intentional incivility, manifested disdain, abusive language, malignant ridicule, and any other plain manifestation of settled hate and estrangement.

60. Threats have been made against Petitioner by innuendo or suggestion as well as by express language for the purpose and effect of constraining and subordinating Petitioner so that she will do what she is unable to refuse; to submit to sexual advances and prostitution.

61. Petitioner is vulnerable to persons who have a state of mind that accompanies the intentional doing of a wrongful act without justification or excuse established by excessive importunity superiority of will or mind, the relationship of the parties or by any other means.

62. A great variety of conduct destroying or menacing public order and tranquility including not only violent acts and words likely to produce violence in others. The injuries inflicted on Petitioner have been wrongful acts that breaches peace and have included declaration of intentions or determination to inflict punishment, loss, or pain.

63. These hostile actions are a reckless disregard of human life proceeding from the hearts and mind of private persons as well as by officials devoid of a just sense of social duty and fatally bent on mischief. Those who know Petitioner is vulnerable are able to keep alive strife and contention.

64. The mental anguish has embraced all forms of mental pain and has been found even where no actual intent to make a threat but exists (as where a "joke" is intended); as opposed to mere assaults coupled with the present ability attributing to her physical pain, including deep grief, distress, anxiety and fright.

65. Like the Tulsa Riot of 1921, personal belongings and household goods had been removed from Petitioner's residence and piled in the streets. Judging from the attitudes of Klamath County officials, Petitioner conceives that the brutality and fiendishness of men who would deliberately aggravate and provoke Petitioner was not of material consequence to them whether Petitioner lived or died.

66. Harmless herself, Petitioner has suffered dejection while being disadvantaged and being demeaned while making various challenges to the validity of her conviction(s), Petitioner has attacked the constitutionality of the felony stalking enhanced with sex offender statute on the grounds of monolithic illegalities.

B.
**The 1995 Rampage as Part of a Broader Pattern of Systematic
Gender and Sex Orientation Discrimination**

67. The sex orientation and gender discrimination of the 1995 California rampage in the United States was part of a much larger pattern of systematic discrimination against this Petitioner.

68. Petitioner was lured with false promises of good jobs and a better life if she acquired an Associate Degree in the Administration of Justice with a median weekly earning based on a level of education.

69. After she graduated she had begun to achieve these earnings by starting a lucrative paralegal business, enforcing judgments, etc. As the owner operator, Petitioner was in high demand and advancing swiftly. (These alibi's were on record with the Napa County Courts and Napa County Sheriff's Department.)

70. While Petitioner struggled to be a part of society, Respondent former City of Napa police sergeant Randy Bowman could no longer tolerate Petitioner's presence, Bowman integrated a series of "justifiable" events⁸ in order to manifest the cycle of injustices that have pervaded Petitioner's undeviating state of existence. Then, a third party restraining order was obtained through the unauthorized practice of law by Bowman to send this Petitioner to prison and displace her minor children.

⁸ Bowman's defamation of Petitioner's character were documented in his chronology of events, inter alia, that Petitioner had an alcohol and drug history, impersonating a police officer...

71. Respondent County of Napa Courts approved and former Napa County Judge Ronald T.L. Young engaged Petitioner as an instrument in human trafficking for the acquisition by improper means such as force, fraud and deception, with the aim of exploiting her sexually and forced labor⁹.

72. Further, Petitioner asserts denial of equal protection under the law, violations of procedural due process with regard to access to the courts, administrative hearings, conspiracy under 42 U.S.C. § 1985 and 1981, with all claims being brought by virtue of the Civil Rights Act of 1871, 42 U.S.C. §1983 previously.

73. Respondents, Napa County and Lassen County Courts encouraged the use of other Courts in the United States as a forum to engage in abuse of process and power to menace, alarm and provoke malicious mischief, illegal irregularities and inconsistencies putting Petitioner in an utmost and extreme vulnerable position so that she would be dependent on and have to service American men.

74. Respondents Napa County have continued to allow the abuse and provided confidential medical information to Respondents Lassen County and other jurisdictions that was then exploited for the purposes of excessive force, excessive punishment, and excessive sanctions to beat her into submission and leaving her to experience violence.

75. Petitioner claims massive human right violations have been manifested constantly without an end through patterns of physical and psychological abuse, state terror, community harassment, and numerous discriminations conducted through excessive housing matters filed but unheard before various courts since 1995.

76. Petitioner contends that she has been a victim of a form of curative rape for sexual humiliation to cause the most traumatic experience against humanity and other mass human rights violations and discriminations for the purpose of eroding all of her rights in the name of national security.

77. Regardless of Petitioners contentions that the State(s) have subjected her to torture by using her as a human battering instrument in human trafficking, therein after, the Courts have sanctioned her by using displacement (“eviction proceedings”) to continue to force her to stay at the homes of men who acquire the gist that Petitioner is available and vulnerable to sexual aggravation without consequence.

78. The Courts put Petitioner into the street when slum landlords, not the “slum” tenant, had been the real culprits and had continually deprived this Petitioner of fundamental right(s) without any real opportunity to defend.

79. The 2008 trauma of the Klamath County Circuit eviction¹⁰ and displacement

⁹ Petitioner disclosed on the original plea agreement that she was induced to signed it under force, violence, duress or undue influence.

¹⁰ In Lindsey v. Normet, the Supreme Court of the United States held that the Oregon landlord-tenant statute, allowing for removal of the tenant within a six day process, was not, on its face, a violation of the 14th Amendment due process clause. But where the right is so fundamental as the tenant’s claim to his home, the

was further exacerbated when Oregon's Department of Motor Vehicles confirmed that Petitioner's drivers license was fully reinstated but infuriated Klamath Falls police into confiscating her vehicle, dumping and piling whatever worldly possessions she had attempted to retain on the street at the Klamath County Fairgrounds for passersby to see. This has involved a great amount of emotion and humiliation that results from being forced out of a home.

80. Literally, you could say, Petitioner was sentenced to death under a statutory scheme that precluded any effective consideration of her degree of involvement in any crime or her prospects for any rehabilitation¹¹

81. Essentially, Petitioner contends that the Eighth and Fourteenth Amendments require that the "sentencer" be given a full opportunity to consider mitigating circumstances in this case, but Petitioner goes beyond them. Lockett v. Ohio, 438 U.S. 586 (1978) ruled that no state statute could limit mitigating circumstances; the jury must be allowed to consider anything that might move them to show leniency.

82. The Court held that the Eighth and Fourteenth Amendments required, in all but the rarest capital cases, that sentencers not be precluded from considering a range of mitigating factors before imposing the death penalty. These factors included any aspect of a defendant's character or record and any circumstances of the offense proffered as a reason for a sentence less than death.

83. The Court echoed Mr. Justice Black, stating that "[i]n discharging his duty of imposing a proper sentence, the sentencing judge is authorized, to consider all of the mitigating and aggravating circumstances involved in the crime." Reviewing the historical repudiation of mandatory sentencing in capital cases, 428 U.S. at -298, concluded that "in capital cases the fundamental respect for humanity underlying the Eighth Amendment . . . requires consideration of the character and record of the individual offender and the circumstances of the particular offense as a constitutionally indispensable part of the process of inflicting the penalty of death." *id* @ pg 604

84. While this Petitioner recognizes that, in noncapital cases the established practice of individualized sentences rests not on constitutional commands, but on public policy enacted into statutes. *id* at pg 605

85. It is clear from recent history that the infliction of death under circumstances where there is no purpose to take life has been grossly out of proportion to the seriousness of any crime. It is established that a penalty constitutes cruel and unusual punishment if it is excessive in relation to the crime for which it is imposed.

requirements of due process should be more embracing. In the setting of modern urban life, the home, even though it be in the slums, is where man's roots. Lindsey v. Normet, 405 U.S. 56 (1972).

¹¹ There is no perfect procedure for deciding in which cases governmental authority should be used to impose death. But confronted with what reasonably would appear to be the questionable constitutionality of permitting discretionary weighing of mitigating factors, considering "the nature and circumstances of the offense and the history, character, and condition of the offender,"

86. A punishment is disproportionate "if it (1) makes no measurable contribution to acceptable goals of punishment, and hence is nothing more than the purposeless and needless imposition of pain and suffering; or (2) is grossly out of proportion to the severity of the crime.

87. Upon consideration of Petitioner's reports, and other evidence, degree of respect due the uniqueness of this individual and arguments submitted to this court by Petitioner, Petitioner, claims these penalty statutes are deficient in regard to Petitioner's hardships. It violates the Eighth Amendment because it is pregnant with discrimination, because it permits a death penalty to be "wantonly" and "freakishly" imposed, and because it imposed the death penalty with "great infrequency" and afforded "no meaningful basis for distinguishing the few cases in which it [was] imposed from the many cases in which it [was] not". Thus, what had been approved under the Due Process Clause of the Fourteenth Amendment became permissible under the Eighth and Fourteenth Amendments by virtue of the judgments.

88. In this case it is unmistakably clear" that Respondents can not be trusted to abide by existing law and to follow conscientiously the instructions of trial judges. To exercise unfettered discretion to impose or not to impose for grievances, the penalties being imposed discriminatorily, wantonly and freakishly, and so frequently that any given sentence is cruel and unusual.

89. Like the systematic abuse that contributed to the climate of animosity by the police and judicial system concerning the Tulsa, Oklahoma riots; So too has the police and judicial system in California and the police and judicial system in Oregon has contributed to the climate of animosity.

90. For example, in a rendition case, the Federal Eastern District Court in Sacramento arrested, detained, and confined this Petitioner and flew her from Klamath Falls, Oregon, to Oklahoma then back to the Sacramento based Federal Court where she stood charges for "opening mail." What appeared to be two attorneys representing this Petitioner was a public illusion because Petitioner's defense and evidence were already lodged in the same Sacramento Federal court. Again, evidence was not even remotely acknowledged nor a mere glance.

91. Throughout the rampage, and in its aftermath, city and state officials consistently acted on a gender and sex oriented discriminatory basis. Petitioner's whose stalking/sex offender arrest and convictions sparked the rampage; had "sexually assaulted" a police officer and that she would be "lynched" for it.

92. This publication served as an incitement to further rampages. City and state officials participated in attacks against Petitioner and Victims that resulted in bodily injury, removal of her minor children and destruction and theft of property. They also acted, with deliberate indifference and motivated by gender animosity, to permit Petitioner and Victims to be physically attacked by others, and to aid, abet, encourage, and condone those attacks.

93. The failure to enforce the law equally among members of gender groups; Their failure to prevent the commission of crimes exacerbated the rampage and led to further violations of Petitioner and Victims' rights. City and state officials, acting with gender bias and animus, endangered Petitioner and Victims by "deputizing" persons they knew or should have known posed a danger to Petitioner and Victims.

94. City and state officials placed Petitioner and Victims at an unjustifiably high risk of harm. City and state officials' deliberate policy and practice was designed to drive Petitioner from community to community, city to city, state to state, and to intimidate Petitioner and Victims such that they would be devastated physically and economically.

95. Because of their gender animus, city and state officials failed to meaningfully investigate and act upon complaints filed by Petitioner. In addition, city and state officials abdicated their responsibility to charge their violent citizens with crimes against Petitioner and Victims, thereby ratifying and jointly participating in gender motivated acts that deprived Petitioner and Victims of their rights.

C.

Petitioner and Victims were Denied Their Rights to Resort to U.S. Courts for Effective Redress and Remedies

96. On May 24, 1996, Petitioner was convicted of stalking and sex offense crimes through an illegal plea bargain. A misdemeanor to felonies. This is evidenced by duress, undue influence, coercion, and especially the arbitrary results of inadequate representation who lacked even the most rudimentary knowledge, resources, and capabilities needed for her defense.

97. Petitioner continues to contend that the attorney's representation fell below an objective standard of reasonableness and established prejudice that affected the outcome as a reasonable probability of counsel's errors. It was like not having any representation at all. This occurred in in the Courts of Napa County, Napa, California. Petitioner has never been entitled to a legitimate appeal in that case.

98. Instead, Petitioner's probation was violated and she was sent to a "High Control Risk" prison" on July 4, 1997 while her sons, Nicholas and Matthew were detained in foster care. Petitioner was given less than four visits by the Department Health and Human Services (Children's Protection Services). Any attempts to be reunited were thwarted¹². (According to the then law mandated "within 18 months.")

99. After Petitioner's children were removed from her custody, Petitioner was denied the "Mother-Infant" program in prison that she was otherwise qualified for but was prohibited from because of the "sex-offender" conviction exception.

100. All cases have been continually ignored and/or dismissed. No attorney has

¹² Petitioner still has not been reunited with her children while observing drug and alcohol addicted fathers have been given parental rights to their children more readily than mothers.

been available to assist Petitioner so she has had to file arduous state and federal cases at all levels of the courts in the state of California on her own that still have not been heard.

101. Petitioner contends that a portion of these prejudicial injuries have been fostered by the above aforementioned Courts through a grand theft of a \$100,000 (U.S. Dollars “\$100k”) rightfully inherited trust estate¹³. Said trust originated in the County of Napa, California. Petitioner was never entitled to a hearing for this matter. As to date, she has not had any cooperation regarding it being returned to its rightful owner

102. Petitioner consolidated all matters before the United States Court of Appeals for the Ninth Circuit. Said Court(s) still have not offered Petitioner any kind of extrajudicial remedy consisting of judicial intervention for the purpose of compelling reparations. As a result of these injuries and damages, Petitioner was unable to emancipate said Victims, Nicholas and Matthew.

103. The lack of respect for this Petitioner's life, her personal property, real property and misappropriation of her rightfully inherited \$100k estate trust during displacement has largely escaped scrutiny by the judiciary, city and state commissioners and legislatures, and legal commentators alike. To date, the Courts still have not called out to try to bring the situation under control.

104. Instead of correcting this imbalance, the Courts have fostered the discrimination(s) by intentionally appointing inexperienced and incapable lawyers to defend their erroneous view of the law resulting in long-term neglect and unwanted burdens.

105. After filing federal summary judgments on a timely basis (the State of California defaulted and has never had to pay the damages), Petitioner consolidated the cases and sent them to the Federal Claims Court in Washington, D.C under a category entitled “Failure To Pay“.

106. Significant amounts of damages were also consolidated and sent to the United States Court of Appeals for the Ninth Circuit under **futility**. They are damages that should have been foreseen by the State of California and Napa County and their failure to abide by the Rule of Law and respect for human rights.

107. State Judges, Federal Judge Magistrates at all levels and the 9th Circuit Court of Appeals were given full opportunities to consider mitigating circumstances in this case as required by the Eighth and Fourteenth Amendments of the United States Constitution. All domestic remedies were unsuccessfully exhausted. Then Petitioner loses the essence of all controversies, being given only empty promises that somehow, somewhere, someone may allow her to litigate the basic question in the case:

¹³ The descendant specifically left Petitioner an inheritance to cover the costs of Petitioner's education. This higher education didn't take to well for Petitioner's aspirations because Petitioner's stimulus check have been confiscated to pay an outstanding student loan for the legal industries that have brought on this grief.

Is this Petitioner entitled to reparations for the illegal conviction(s) as a female stalker and sex offender?

108. Several other reports and lawsuits were filed in the Klamath County Circuit Court in Klamath Falls, Oregon regarding real property, personal property, and housing matters. Again, on August 11, 2008, Petitioner brought suit in the United States Court of Appeals For the Ninth Circuit for restitution and repair of the injuries sustained by Respondents Klamath County for the actions and inaction of the agents of the United States of America during and in and aftermath the rampage of 1995. Petitioner brought suit in a timely manner with respect to personal safety, the revelation of critical information held in secret to evade accountability, and the viability of resorting to the courts.

109. Despite her best efforts to use the court system, Petitioner was subjected to discriminatory bias rather than justice. Other subsequent suits were filed by Petitioner against insurance companies, the city of and county of Klamath Falls, Oregon, for cases interrelated. While Petitioner tried to bring suit after each and every rampage, not one was successful.

110. In addition, because of the police's then-pervasive influence throughout the legal system, Petitioner has learned that she could not count on the gender and sex oriented discriminatory courts for restitution.

111. The Napa County and State of California insurance companies denied liability for loss. No Courts have interpreted the damages and thereby immunized insurance companies from liability. Here to, everyone agrees that many of this country's most prominent men are mean tyrannical misogynists that have remained as outstanding members on the State and American Bar Associations.

112. The gender and sex orientation animus and lack of equal treatment that has pervaded the justice system is clearly evidenced by the fact that every legal claim made by this Petitioner in the wake of these rampages were denied.

113. Neither the cities or state of California nor the cities or state of Oregon undertook any investigations or prosecutions into Petitioner's claims. The government's effort to eliminate memory of this rampage is becoming so successful that this Petitioner has been left weak and inferior at the mercy of hostile residents to perish with their visceral bias.

114. In addition, state and city officials, motivated by malevolent misogyny, impeded Petitioner and Victims' attempts to rebuild their lives after the rampage. Eerily similar to the Tulsa Riot in Greenwood¹⁴, the cities quickly applied zoning restrictions to this Petitioner in every attempt to relocate.

115. When Petitioner pointed out that the discriminatory basis of the the zoning restrictions were declared unlawful, the cities of Susanville and Klamath Falls and the United States Court of Appeals for the Ninth Circuit refused to provide economic compensation or

¹⁴ Zoning restrictions rendered reconstruction of the destroyed dwellings prohibitively expensive.

to help the Petitioner who remains transient today¹⁵.

116. As a result of all mistreatments, Petitioner is concerned that all actions and inactions of city and state officials, as alleged in this Petition, were pursuant to the official policy, custom, habit, usage, pattern and practice of unequal enforcement of the law.

117. City and state officials did not treat this female citizen in the same or similar manner as others in the local communities. As a direct and proximate result of city and state officials' illegal and malevolent misogynist motivated actions, Petitioner and Victims suffered physical injury, the loss of their property, and emotional distress.

118. Instead, Courts are closed to Petitioner's claims, in the era of the domination and malevolent misogyny of the Courts and police force(s) have kept Petitioner and her minor children interned indefinitely under unchecked power awaiting hearings which may never come while protecting the community neighborhoods with calumny that "Petitioner is an 'enemy combatant' who is 'believed to be dangerous;' that "anybody who is suspected of giving the enemy 'material support' could be subjected to fines, imprisonment, and the Courts version of due process;

119. There is no question that there are exceptional circumstances here. The prolonged detention or 'preventative detention' of Petitioner and Victims while viscerally declaring, "[p]reventing evidence against her being admitted" or she "would compromise sensitive sources and methods," viscerally adding the presumption, "She would be dangerous because she's been tortured' and 'imprisonment not based on proven crimes or past violation of law, but of those deemed generally "dangerous" by the Government for various reasons."

D. The Truth Commission Must End The Conspiracy of Silence

120. Despite Petitioner's detailed difficulties and efforts to make available to the public these serious human right violations, the U.S. government's efforts to maintain a conspiracy of silence regarding the rampage lasting for more than ten years without restitution for its victims.

121. The documentation assembled by Petitioner provides strong evidence that local municipal and county officials failed to take actions to calm or contain these situations but instead have become participants in the subsequent violence while waiting for more violence to erupt.

122. Reports have been made clear and published via Internet of the extensive involvement of the state and city in officials by the continuation of malicious prosecutions regardless of the sufficient information to state the nature of the causes of action of this 1995 rampage which has taken place since 1989.

¹⁵ The city of Tulsa also declined the offers of private aid that flowed in from outside the city. The city provided no assistance for the victims of Greenwood to rebuild their lives with few remaining resources. Many of whom remained housed in tents through the fall and into the winter of 1921.

123. Nevertheless, there have been no convictions for any of the violent acts against this Petitioner or any insurance payments to Petitioner and Victims who lost their homes or personal property as a result of the rampage¹⁶.

124. Moreover, local officials are attempting to block the rebuilding of this Petitioner's life by the failure to amend the differences thereby making any costs prohibitively expensive and by instigating, provoking, and aggravating Petitioner psychological state while using community said subjects.

125. In the years and decade that follows this Petitioner's 1995 rampage, city and state officials have denied their involvement by silence and fatal reprisal in directing and carrying out attacks. No grand jury has convened to establish or substantiate the 1995 rampages' cause, because like the charges against African-Americans in the Tulsa Riot, that: “[N]ot members of the white mob had been armed by the state were responsible for the death and destruction that had ensued.”

126. Likewise in this instant case, by silence and reprisal, it has been deemed loud and clear: “[T]his rampage is the direct result of an effort on the part of Petitioner. There was no mob spirit among the citizens, no stalking and no harms committed as alleged by Petitioner....that: there was no mob spirit among the other occupants at the Coldwell Banker properties, no talk of related conflicts, disturbing the peace, disorderly conduct,or any other activities that constituted crimes....that: [T]he 65 mph race rampage and suspension of Petitioner's California driver's license was the direct result of an effort on the part of Petitioner's “mental disability”.... that: Petitioner has a 'history of stalking women' and is 'mentally disturbed'....which precipitated and was the direct cause of the entire affair....”

127. This “conspiracy of silence” surrounding the rampage and her experiences fell particularly hard on this Petitioner, who believes it is not safe to exist openly in public. The rampages mentioned throughout this Petition have caused Petitioner to suffer deep psychological scarring. As the rampage and its aftermath continues to linger with its, *inter alia*, threats of more arbitrary arrests, Petitioner's sense of security has diminished by placing her in a constant state of subservient conditions, prolonged detention, and an enforced system that privileges men.

128. Despite these findings, the Courts, cities and states have not abided by the recommendations of the individual state or the United States Constitution¹⁷, to ensure that all persons have access to effective and adequate remedies for gender and sex orientation discrimination(s).

129. While new information is available concurring about who is responsible for the incessant rampage, and the increased viability of lawsuits alleging human rights

¹⁶ This Petitioner claims she has lost more than estimated \$150,000.00 in 2009 dollars minimum in Oregon alone since October 3, 2005.

¹⁷ Around the same time, lawsuits demanding reparations for violations committed during the Holocaust were coming to fruition and being used as a model for other such claims arising out of the Armenian genocide as well as WWII-era harms committed by Japan and Japanese companies.

violations committed within this decade past, Petitioner remains transient without an address and has realized that such suits in the United States would be futile as it would have been in years past.

130. This Petitioner would have, and did have, an extremely difficult time pursuing her legal rights while being disadvantaged and demeaned. She advocated that reparations should have been made while she was incarcerated in prison and during the immediate aftermath.

131. The U.S. District Court dismissed the suits for lack of jurisdiction, frivolity, or for no cause at all. Despite these findings, presiding judges made it clear that they have flouted Constitutional law where there is plenty of evidence.

132. To support the premise that Petitioner asserts extraordinary circumstances in a legal system that is openly hostile to her and her minor sons, city and state officials engaged in official policy, practice, custom, habit, and usage of denying this woman her equal rights under the law.

133. They continue to blame Petitioner for the reoccurring rampages and actively suppress the facts in an era of the Tulsa-Greenwood Race Riot Claims Accountability Act of 2007, Convention Against Torture and Other Cruel, Inhuman Or Degrading Treatment or Punishment, Committee on the Elimination of Discrimination against Women, International Covenant on Civil and Political Rights.

134. Intents resulting from that Report the horror and devastation of the rampage as well as the intimidation, misrepresentation and denial that has taken place afterward has been horrendous. The political and social climate after the rampage simply was not one wherein the Petitioner had a true opportunity to pursue her legal rights.

135. The question is not a factual question of whether exceptional circumstances existed. They did. It is a legal question of the effect, with respect to the issue of statute of limitations, of those exceptional circumstances. Petitioner appealed to the Courts, which affirmed the lower court's rulings.

136. The standard of presenting a 'question of exceptional importance' deserving the attention of the entire Court are one of the more shameful events in our nation's history.

137. Official government action fueled all subsequent claims raised by Petitioner fell upon the deaf ears of the courts and most languished without even a cursory glance at the merits. None of the vast lawsuits filed were successful. In a perversion of justice, a grand jury commissioned by the state exonerated the city and state, and all rampageers, and blamed the Petitioner for the atrocity. This history alone raises a 'question of exceptional importance' —

138. Petitioner appealed to the U.S. Supreme Court through a VAWA injunction, which, on or about February 6, 2004 declined to take up the case. This had the effect of

denying Petitioner and Victims their rights to equality before the law (Article II of the American Declaration of the Rights and Duties of Man), to a fair trial (Article XVIII of the American Declaration of the Rights and Duties of Man), and to numerous other rights articulated in additional treaties to which the United States is bound.

139. Because of this denial of an effective remedy, and its discriminatory effect, [T]he rampage has cast a pall over cities, and has made it feel half-dead even today. The combination of circumstances that existed after the rampage of 1995 made it impossible for Petitioner to live as an upstanding and fearless citizen even if she initially tried to do so eventually losing part of her dreams and her will as an individual.

140. Prior to the rampage, Petitioner had been economically prosperous, not to mention spiritually and physically cohesive and strong. The rampage was devastating in all of these respects, but in particular economically, and given the lack of assistance and almost absolute isolation that exists for a decade after the rampage of 1995. Petitioner has not able to recover economically.

141. Thus there was a period of approximately ten years in which Petitioner made her best effort to rebuild, and revitalize her community educationally and socially. Eventually, given the economic devastation, and the persistent and complete separation and indifference of the community, a pall of discouragement set in among the community. And because the city has never honestly confronted what happened, that pall persists to this day.

142. Petitioner continues to experience very significant emotions and circumstances tied to the rampage and its aftermath for many years afterwards, even up to the present. These effects include persistent and deeply felt fear, reluctance and suppression regarding subjects related to the rampage, reluctance and fear regarding contact with the public and a pervasive compulsion to avoid stepping out of line in general, and additional persistent fear of unpredictable disaster.”

V.

COMPETENCE OF THE COMMISSION

143. The Commission has competence *ratione personae*, *ratione materiae*, *ratione temporis*, and *ratione loci* to examine this Petition.

A. Competence *Ratione Personae*

144. The Commission has competence *ratione personae* to examine this Petition. Pursuant to Article 23 of the Commission’s Rules of Procedure, Petitioner Kini Cosma, an individual, alleging the violation of rights protected under the American Declaration of the Rights and Duties of Man.

145. By its ratification of the OAS Charter, the United States also became subject to the jurisdiction of the Commission. If the United States has not ratified the American Convention on Human Rights, Article 20(b) of the Commission’s Statute makes clear that the

Commission may nonetheless “examine communications submitted to it and any other available information, to address the government of any member state not a Party to the Convention for information deemed pertinent by this Commission, and to make recommendations to it, when it finds this appropriate, in order to bring about more effective observance of fundamental human rights.”

146. Petitioner seeks relief in accordance with these explicit powers of the Commission under Article 20(b).

147. The Commission’s Statute gives it the following powers, in addition to those it possesses under Article 18, with regard to OAS member states not party to the American Convention on Human Rights:

- A. To pay particular attention to the observance of the human rights referred to in Articles I, II, III, IV, XVIII, XXV, and XXVI of the American Declaration of the Rights and Duties of Man;
- B. To examine communications submitted to it and any other available information, to address the government of any member state not a Party to the Convention for information deemed pertinent by this Commission, and to make recommendations to it, when it finds this appropriate, in order to bring about more effective observance of fundamental human rights; And,
- C. To verify, as a prior condition to the exercise of the powers granted under subparagraph b. above, whether the domestic legal procedures and remedies of each member state not a Party to the Convention have been duly applied and exhausted.. (Inter-Am. C.H.R Statute, Art. 20.)

B. Competence *Ratione Materiae*

148. The Commission has competence *ratione materiae* to examine this Petition. The Petition alleges violations of human rights protected by the American Declaration of the Rights and Duties of Man. Specifically, the Petition alleges violations of Article II (right to equality before law) and Article XVIII (right to a fair trial) of the American Declaration.

149. In addition, the Commission also has the competence to consider other sources of international law that are relevant to interpreting and applying the Declaration. To this end, the Commission has said: [T]he Commission recalls that in interpreting and applying the Declaration, its provisions...should be considered in the context of the broader international and inter-American human rights systems, in the light of developments in the

field of international human rights law since it was first composed¹⁸ 19 20.

150. Due regard should in this respect be given to other relevant rules of international law applicable to member states against which complaints of violations of the Declaration are properly lodged as well as developments in the corpus juris gentium of international human rights law over time and in present-day conditions.

151. Developments in the corpus of international human rights law relevant to interpreting and applying the American Declaration may in turn be drawn from various sources of international law, including the provisions of other international and regional human rights instruments and customary international law, including those customary norms considered to form a part of jus cogens. This Petition alleges that rights guaranteed by these bodies of law have also been violated.

C. Competence *Ratione Temporis*

152. The Commission has competence *ratione temporis* to examine this Petition. Because Congress and ALL Courts, including the U.S. Supreme Court, denied Petitioners' Petition filed on February 12, 2004, 2005 for All Writs Act of 28 U.S.C. §1651 of Chapter 111 of Part V (18 U.S.C. §2266, &167 VIOLENCE AGAINST WOMAN ACT (VAWA) FULL FAITH AND CRDIT PROVISION) thereby depriving Petitioner of an effective remedy for the harms she suffered, the United States is in violation of its obligations under the American Declaration.

153. While the underlying events upon which this Petition is based was initiated sometime between May 24, 1996-Oct 26, 1998, the denial of a remedy has been continuous up to and finally including the Supreme Court's denial of the VAWA.

154. Moreover, the effects on this Petitioner, including continued trauma and fear, continue to this day. To be clear, while the initial human rights violations committed during the rampage were grave, this complaint alleges violations of the rights provided in the American Declaration and elsewhere that occurred after the Declaration's ratification and that continue as of the date of this Petition. These violations are based on the U.S. Courts'

¹⁸ It is well-established that other treaties concerning the protection of human rights in the American states may be invoked by the supervisory bodies of the inter-American human rights system, regardless of the bilateral or 106 Inter-Am. C.H.R., Michael Domingues v. United States, Merits, Case 12.285, Report No. 62/02 (2002) (internal citations omitted).

¹⁹ The Commission has also made clear that "the Inter-American Court has endorsed the Commission's practice of applying sources of international law found in other treaties that contain human rights provisions different from those of the American Convention" or, presumably, of the American Declaration. It then quoted from the Inter-American Court: The need of the regional system to be complemented by the universal finds expression in the practice of the Inter-American Commission on Human Rights and is entirely consistent with the object and purpose of the Convention, the American Declaration and the Statute of the Commission. The Commission has properly invoked in some of its reports and resolutions "other treaties concerning the protection of human rights in the American states," regardless of their bilateral or multilateral character, or whether they have been adopted within the framework or under the auspices of the inter-American system.

²⁰ In addition, the Commission has competence to consider the provisions of the International Covenant on Civil and Political Rights as well as jus cogens norms relating to the prohibition on racial discrimination when interpreting the American Declaration.

continuing refusal to provide an effective remedy for the harms Petitioner and Victims suffer.

155. The Commission has consistently stated that where violations of rights protected by a human rights instrument arose prior to the ratification of the instrument, the Commission nonetheless is competent to receive Petitions where violations continue and effects persist after the instrument's entry into force.

156. Although these underlying events described in this Petition happened prior to May 24, 1996, the United States has never remedied their breach and, as such, remains in violation of its international obligations. According to the International Law Commission's Draft Articles on State Responsibility, "The breach of an international obligation by an act of a State having a continuing character extends over the entire period during which the act continues and remains not in conformity with the international obligation. The breach of an international obligation requiring a State to prevent a given event occurs when the event occurs and extends over the entire period during which the event continues and remains not in conformity with that obligation." The United States therefore has a legal obligation to remedy the violations initiated in May 24, 1996, which it has never done.

D. Competence *Rationae Loci*

157. The Commission has competence *ratione loci* to examine this Petition. The Petition alleges violations of rights protected in the American Declaration of the Rights and Duties of Man and elsewhere that took place in the territory of the United States, a member of the Organization of American States.

VI.

ADMISSIBILITY OF THE PETITION

A. Exhaustion of Domestic Remedies

158. The Petition is admissible because domestic remedies have been exhausted as required by Article 31 of the Rules of Procedure above²¹.

159. The Court of Appeal of the State of California, First Appellate District, Division One, denied Petitioners' Writ of Habeas Corpus and Motion For Appointment Of Counsel on January 14, 1998²².

160. The United States District Court For The Northern District Of California dismissed with prejudice Petitioners civil rights complaint pursuant to 42 U.S.C. section 1983 which raised claims for defamation, challenging state court orders, challenging

21. See International Law Commission, Draft Articles on Responsibility of States for internationally wrongful acts, U.N. GAOR, 56th Sess., Supp. No. 10, arts. 14(2), 14(3), U.N. Doc. A/56/10 (2001), available at [http://www.un.org/law/ilc/texts/State_responsibility/responsibility_articles\(e\).pdf](http://www.un.org/law/ilc/texts/State_responsibility/responsibility_articles(e).pdf) (last visited Oct. 5, 2005) (hereinafter "Draft Articles on State Responsibility").

22 See attachment for complete dates of Petitioners judicial submissions and SOME Federal Magistrate Orders.

vexatious litigant classification, harassment, access to the courts, child visitation and conspiracy on June 16, 1998

161. The United States District Court For The Northern District Of California dismissed Petition Habeas Corpus claims on August 21, 1998 by Order Denying Reconsideration and A Certificate of Appealability.

B. Duplication of Procedures

162. This Petition is admissible because Petitioner believes its subject is not pending in any other proceeding or settlement as required by Article 33 of the Rules of Procedure of the Inter-American Commission.

IV.

ARGUMENT

163. The facts described above make clear that the United States is in violation of the rights affirmed in the American Declaration of the Rights and Duties of Man as elaborated by other human rights treaties. Because the United States is a member of the Organization of American States, it is legally required to protect and promote these rights. According to the Inter-American Court of Human Rights, the rights articulated in the American Declaration are, at a minimum, the human rights that OAS member states are bound to respect.

164. As such, the United States is responsible under international law for violating the rights declared in the American Declaration, for violating the rights affirmed in any treaty to which the United States is a party, and for violating jus cogens norms, specifically the prohibition against gender and sex orientation discrimination²³.

A.

The United States Has Denied Victims the Right to Resort to the Courts to Ensure Respect for their Legal Rights and the Right to Equality Before the Law Without Distinction as to Gender and/or Sex Orientation

165. Article XVIII of the American Declaration of the Rights and Duties of Man says: "Every person may resort to the courts to ensure respect for his legal rights. There should likewise be available to him a simple, brief procedure whereby the courts will protect her from acts of authority that, to his prejudice, violate any fundamental constitutional rights." Additionally, Article II of the American Declaration guarantees that "All persons are equal before the law and have the rights and duties established in this Declaration, without distinction as to gender...."²⁴

²³ See Inter-Am. Ct. H.R., Interpretation of the American Declaration of the Rights and Duties of Man Within the Framework of Article 64 of the American Convention on Human Rights, Advisory Opinion, at paras 42-43 (1989).

²⁴ With the U.S. Supreme Court's decision of May 16, 2005, Victims were denied their right to resort to the

1. No Statute of Limitations (Prescription) for International Crimes

166. If the United States District Courts dismisses Petitioner's claims saying that the statute of limitations on these crimes had run; in so doing, they furthered a longstanding injustice that was gender and sex orientation discriminatory in intent and effect. Petitioner was denied her right to an effective remedy for the harms she suffered, a denial which has a discriminatory effect as well.

167. The initial human rights violations Petitioner and Victims suffered are not subject to any statute of limitations. Specifically, the crimes committed in 1995 are violations of the jus cogens norm prohibiting gender and sex orientation discrimination and, as such, are not subject to any statute of limitations. See Restatement (Third) Foreign Relations Law of the United States §702(f) cmt.n (1986) (making clear that while not all human rights norms are peremptory norms (jus cogens), several are if they are practiced, encouraged, or condoned as a matter of state policy, including: slavery or slave trade; causing the disappearance of individuals; torture or other cruel, inhuman, or degrading treatment or punishment; prolonged arbitrary detention; systematic discrimination; and a consistent pattern of gross violations of internationally recognized human rights); prohibited by the international community as a whole, no state may shield itself from responsibility by invoking a statute of limitations²⁵. ²⁶

168. As such, because the crimes committed are not subject to any statute of limitations, the United States has violated Petitioners' and Victims' right to resort to the courts by claiming such a statute of limitations has run.

169. Under customary international law, as codified in the Rome Statute of the International Criminal Court, crimes against humanity are defined as any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack:

170. *Inter alia*, (a) Enslavement; (b) Deportation or forcible transfer of population;; (c) Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law; (d) Torture; (e) Rape, sexual slavery, enforced prostitution, or any other form of sexual violence of comparable gravity; (f) Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural,

courts so that they might obtain an effective legal remedy, a denial that has a racially discriminatory effect. In denying Victims' right to an effective remedy, by applying a statute of limitations with the effect of furthering an injustice that was racially discriminatory in both intent and effect, the United States is in violation of its obligations under Articles XVIII and II of the American Declaration.

²⁵ The crimes committed in the Tulsa Riot of 1921 also constitute crimes against humanity and, as such, are not subject to any statute of limitations. The United States' belief that the statute of limitations was applicable to these crimes was thus in error.

²⁶ Also see: Principles and rules concerning the basic rights of the human person, including protection from slavery and racial discrimination; International Convention on the Elimination of all Forms of Racial Discrimination, art. 2, Mar. 7, 1966, 660 U.N.T.S. 195, 5 I.L.M. 352, entered into force Jan. 4., 1969 (codifying the jus cogens norm prohibiting racial discrimination); International Covenant on Civil and Political Rights, art. 28, Dec. 16, 1966, 999 U.N.T.S. 171, 6 I.L.M. 36, entered into force Mar. 23, 1976 (same).

religious, gender as defined in paragraph 3, or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court; (g) Enforced disappearance of persons; (h) The crime of apartheid; (i) Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health²⁷.

171. Specifically, that Court had said: [A]ll amnesty provisions, *provisions on prescription* and the establishment of measures designed to eliminate responsibility are inadmissible, because they are intended to prevent the investigation and punishment of those responsible for serious human rights violations such as torture, extrajudicial, summary or arbitrary execution and forced disappearance, all of them prohibited because they violate non-derogable rights recognized by international human rights law. (Emphasis added.)

172. It is imperative that justice be done for Petitioner and Victims of the rampage of 1995. Until an effective remedy is secured, the devastating harms from this event will continue to be felt²⁸.

173. As such, when U.S. courts refused to decide the case on the merits because they said, "Dismissed (with or without prejudice)"; "Failure to pay filing fees"; "Timeliness" or that "statute of limitation had run out", the United States denied Petitioner and Victims their right to access the courts and to an effective remedy. That denial has gender and sex orientation discriminatory content and impact, violating articles XVIII and II of the American Declaration.

2. Statutes of Limitations May Not Run Before an Effective Remedy Is Available

174. Moreover, even if the crimes committed were subject to statutes of limitations, these statutes of limitations could not have started to run before Petitioner and Victims had access to an effective remedy²⁹.

175. Principles for the Protection and Promotion of Human Rights through Action

²⁷ (Rome Statute of the International Criminal Court, July 17, 1998, art. 7(1), 2187 U.N.T.S. 90, entered into force July 1, 2002.) See Convention on Imprescriptibility of Crimes of War and Against Humanity, G.A. Res. 2391 (XXII), U.N. GAOR, 22d Sess. (1968); Council of Europe, Non-applicability of Statutory Limitations to Crimes against Humanity and War Crimes, Jan. 25, 1974, E.T.S. No. 82; Rome Statute of the International Criminal Court, *supra* note 118, at art. The Inter-American Court has repeatedly made clear that states may not rely on statutes of limitations to shield themselves from responsibility for international crimes.

²⁸ As the Tulsa Commission's report so clearly indicates: "What happened in 1921 in Tulsa is as alive today as it was back then. What happened in Tulsa stays as important and remains as unresolved today as in 1921."

²⁹ The United Nations Independent Expert to Update the Set of 120 Inter-Am. Ct. H.R., Barrios Altos case (Chumbipuma Aguirre et al. v. Peru), para. 41 (2001); see also Inter-Am. Ct. H.R., Trujillo-Oroza v. Bolivia, para. 106 (2002); Inter-Am. Ct. H.R., El Caracazo v. Venezuela, para. 119 (2002); Inter-Am. Ct. H.R., Myrna Mack Chang v. Guatemala, para. 276 (2003). Black's Law Dictionary defines prescription as the "effect of the lapse of time in creating and destroying rights." Black's Law Dictionary 1201 (7th ed. 1999).

to Combat Impunity, a post that was filled by the United Nations Secretary-General at the request of the United Nations Commission on Human Rights, made this clear by stating that: Prescription—of prosecution or penalty—in criminal cases shall not run for such period as no effective remedy is available.

176. Prescription shall not apply to crimes under international law that are by their nature imprescriptible. When it does apply, prescription shall not be effective against civil or administrative actions brought by victims seeking reparation for their injuries. In situations with significant parallels to the current one, in which victims of human rights violations could not access the courts because the regime under which they were living did not provide such access, the Human Rights Committee has made clear statutes of limitations should not apply. Specifically, the Committee said, “Gross violations of civil and political rights during military rule should be prosecutable for as long as necessary, with applicability as far back in time as necessary to bring their perpetrators to justice.”

177. Because Petitioner and Victims in this case are similarly faced with a situation in which they did not have access to the courts to protect their rights, and did not have the information they needed to bring suit effectively, the crimes committed against them should still be prosecutable today³⁰.

178. The Revised Set of Basic Principles and Guidelines on the Right to Reparation for Victims of Gross Violations of Human Rights and Humanitarian Law similarly said that “statutes of limitations shall not apply in respect of periods during which no effective remedies exist for violations of human rights and humanitarian law. Civil claims relating to reparations for gross violations of human rights and humanitarian law shall not be subject to statutes of limitations.” Revised Set of basic principles and guidelines on the right to reparation for victims of gross violations of human rights and humanitarian law prepared by Theo van Boven pursuant to Sub-Commission decision 1995/117, para. 9, U.N. Doc. E/CN.4/Sub.2/1996/17 (1996) (hereinafter “Revised Principles on Impunity”)³¹.

179. While a lack of knowledge about who was responsible for the crimes committed was a significant factor preventing Petitioner and Victims from bringing suit earlier, it was not the only one. Petitioner and Victims were also prevented from obtaining an effective remedy in the U.S. Court after the 1995 rampage because the judicial system was plagued by the influence of the era that U.S. policy could be to intern indefinitely, awaiting trails which may never come because their governments believe them to be 'dangerous.' And, because the Constitution can shelter them forever against the dangers of such

³⁰ See Updated Set of principles for the protection and promotion of human rights through action to combat impunity, principle 23, U.N. Doc. E/CN.4/2005/102/Add.1 (2005) (hereinafter “Updated Principles on Impunity”)

³¹ As noted above, it was on February 28, 2001, that the Tulsa Commission published its report. In it, for the first time, the story of the rampage was told fully and truthfully. Much of the information contained within this report had been withheld from public knowledge with specific intent to deny Victims recourse at law because of race. Only with the report’s publication did Victims have sufficient information to state the causes of action they could bring, and against whom. The Tulsa Commission’s report made a remedy possible for the first time. Because no statute of limitations could have begun to toll before this, the United States denied Victims their rights by preventing them from accessing the courts due to an erroneous running of the statute of limitations.

unchecked power³² or who cannot be tried in civilian courts because those who have been tortured (preventing evidence against them being admitted) and would compromise sensitive sources and methods³³.

180. In addition, even if the truth had been clearly known and there had been some hope that a Court would entertain Petitioner's lawsuits, the fear that was intentionally created by the unyielding belief that there is no other purpose other than to empower its leaders to suppress evidence of the torture it inflicted on Petitioner³⁴ ³⁵.

181. Reinforced by this climate of injury that precedes renders this knowledge of the truth and access to the Courts insufficient for the full realization of Petitioner and Victims' right to legal process. In fact, Petitioner reasonably believes that if she brings this case, she will continue to be in grave danger³⁶.

182. The trauma that Petitioner experienced also had the effect of deterring her from bringing suit soon after the 1995 rampage because her emotions and personal reactions that were consistent with what one would expect from trauma victims, and consistent from what one would expect from the particular type of trauma that the rampage was, namely, fear, resignation, and passivity as related to the source of the trauma, such that it is reasonable to expect that she would not have pursued their legal rights and remedies in the years after the rampage. These emotions and sentiments have persisted in the years since the 1995 rampage.

183. This makes clear that this Petitioner was prevented, because of the harms she suffered during the state and city-supported rampage(s), from accessing any effective remedy.

3. No Internal Law May Undermine Rights in the American Declaration

184. No internal law of the United States—such as any law concerning a statute of limitations—can undermine the rights articulated in the American Declaration.

185. Customary international law makes clear that states may not invoke provisions of their domestic law to justify their failure to comply with a treaty obligation. Further, the Inter-American Court has held that “under international law a State is responsible for the acts of its agents undertaken in their official capacity and for their omissions, even when those agents act outside the sphere of their authority or violate internal law.” As such, the United

³² U.S. v. Salerno, 1987

³³ Beyond Guantanamo ever since the Bush-Cheney administration's Attorney General John Ashcroft version of due process that jihadists' "battleground," and Americans suspected of giving the enemy "material support."

³⁴ Witness Attorney General Eric Holder, asserting state secrets to force the cancellation of court cases that could reveal what was done to victims of "extraordinary renditions" during the years of secret prisons.

³⁵ Also see dozens of lawsuits by "ordinary Americans" against companies that were thrown out.

³⁶ As one doctor who had studied the Tulsa Riot and interviewed a number of Victims explained [I]t is reasonable to conclude that few would have had the psychological resources to vigorously pursue restitution in court [soon after the riot]. That would, in many respects, have been the ultimate 'crossing the line,' and frankly, would have seemed foolhardy to most in that era, as it would have challenged the very social system of Tulsa that had just been 'reinforced' with bullets and fire.

States cannot rely on a statute of limitations law to deny Victims their right to resort to the courts.

4. The Crimes Committed Violate Rights Protected in Treaties to Which the United States is a Party

186. In addition, the radically gender and sex oriented discriminatory impact of denying this Petitioner and Victims access to the courts constitutes a violation of a number of international treaties to which the United States is a party. These include Articles 2, 4, 5, and 6 of the International Convention on the Elimination of Discrimination against Women and Articles 2 and 26 of the International Convention on Civil and Political Rights.

B. The United States Has a Legal Duty to Prevent and Investigate Human Rights Violations, and to Identify and Punish Perpetrators

187. The United States has not fulfilled its legal duty to prevent and investigate the crimes committed against this Petitioner and Victims, or its duty to punish the perpetrators of these crimes. The Inter-American Court has made clear that “States...have the obligation to prevent human rights violations, investigate them, identify and punish their intellectual authors and accessories after the fact, and may not invoke existing provision of domestic law...to avoid complying with their obligations under international law.³⁷”

188. To date, the United States has not fulfilled this obligation with regard to the Petitioner and Victims³⁸. The total absence of a criminal investigation into the events surrounding this rampage and the lack of prosecution of the perpetrators constitutes the definition of impunity. The Inter-American Court has made this point clearly, noting that impunity involves “the failure to investigate, prosecute, take into custody, try and convict those responsible for violations of rights protected by the American Convention” and also, presumably, by the American Declaration. The Inter-American Court has further said that “the State has the obligation to use all the legal means at its disposal to combat these kinds of situations, since impunity fosters chronic recidivism of human rights violations, and total defenseless[ness] of the victims and their relatives.”

189. Moreover, the Court has made clear that states have an obligation to provide an effective criminal investigation into and prosecution of violations of rights protected by treaty. It has said: What is decisive is whether a violation of the rights recognized by the

³⁷ See Vienna Convention on the Law of Treaties, art. 27, May 22, 1969, 1155 U.N.T.S. 331, entered into force Jan. 27, 1980 (“A party may not invoke the provisions of its internal law as justification for its failure to perform a treaty”); Draft Articles on State Responsibility, supra note 111, at art. 32 (“The responsible State may not rely on the provisions of its internal law as justification for failure to comply with its obligations under this Part”). Although the United States has not ratified the Vienna Convention on the Law of Treaties, it does recognize many of its provisions as customary international law, including this one. See Restatement (Third), supra note 117, at §115(1)(b) (“That a rule of international law or a provision of an international agreement is superseded as domestic law does not relieve the United States of its international obligation or of the consequences of a violation of that obligation”).

³⁸ As the Commission so clearly found in the Tulsa Riot, “Not one of these criminal acts was then or has ever been prosecuted or punished by government at any level, municipal, county, state, or federal.”

Convention has occurred with the support or acquiescence of the government, or whether the State has allowed the act to take place without taking measures to prevent it or to punish those responsible.

190. The state has a legal duty to take reasonable steps to prevent human rights violations and to use the means at its disposal to carry out a serious investigation of violations committed within its jurisdiction, to identify those responsible, to impose the appropriate punishment and to ensure the victim adequate compensation.

191. If the State apparatus acts in such a way that the violation goes unpunished and the victim's full enjoyment of such rights is not restored as soon as possible, the State has failed to comply with its duty to ensure the free and full exercise of those rights to the person within its jurisdiction.

192. The duty to investigate... must have an objective and be assumed by the state as its own legal duty, not as a step taken by private interests that depends upon the initiative of the victim or his family or upon their offer of proof, without an effective search for the truth by the government.

193. Moreover, the United States has the duty to investigate and punish these crimes on its own, irrespective of Petitioners' initiative to bring suit. But it has not fulfilled this obligation.

194. As the Commission has made clear: [S]ince the crimes in question here are public crimes, that is to say subject to ex officio prosecution, as in the present case, the State has the legal obligation to investigate them, an obligation which may not be delegated or renounced³⁹.

C.

The United States has Violated Victims' Rights to Life, Liberty and Security; to Equality Before the Law Without Distinction as to Race; to the Right of the Inviolability of the Home, to the Preservation of Health and Well-Being; to Resort to the Courts to Ensure Respect for their Legal Rights; to Property; and to Protection from Arbitrary Arrest

195. Because of its action and inaction during and after the rampage, the United States is in violation of Article I of the American Declaration, which provides, "Every human being has the right to life, liberty and the security of his person." As the facts provided above clearly display, Petitioner and Victims were denied this right. As a result of the 1995 rampage, an indeterminate sum of money was lost.

³⁹ Thus, it is in any case incumbent on the State(s) to take punitive action and press forward with the various procedural stages, in fulfillment of its duty to guarantee the right to justice of the Petitioner and her family. This function must be assumed by the State as its own legal duty, not as a step taken by private interests or that depends upon the initiative of those private individuals or upon their offer of proof.

196. Additionally, the United States is in violation of Article II of the American Declaration, which provides “All persons are equal before the law and have the rights and duties established in this Declaration, without distinction as to race, sex, language, creed or any other factor.”

197. The lack of accountability for crimes committed against Petitioner and Victims during the 1995 rampage shows that the cities, states, and Courts of California and Oregon did not treat this Petitioner equally before the law.

198. As noted above, the Courts indicted Petitioner for her alleged roles in the rampage, but no such indictments were ever issued for any other person or in the official capacity under color of the law.

199. "Deputized" thugs and hooligans were the only people who recovered damages for their losses. The United States also is in violation of Article IX of the American Declaration, which provides, “Every person has the right to inviolability of his home.” As noted with the partial list of damages, Petitioner has been left homeless awaiting the inevitable; accrual of new injuries, damages, and losses.

200. In addition, the United States is in violation of Article XI of the American Declaration, which provides, “Every person has the right to preservation of his health through sanitary and social measures relating to food, clothing, housing and medical care, to the extent permitted by public and community resources.”

201. Petitioner and Victims were denied this right when they were displaced and were forced to live in a new community (Auburn, California) who offered open hostility and further discrimination.

202. The United States also is in violation of Article XVIII of the American Declaration, which provides: “Every person may resort to the courts to ensure respect for his legal rights. There should likewise be available to him a simple, brief procedure whereby the courts will protect him from acts of authority that, to his prejudice, violate any fundamental constitutional rights.”

203. As noted throughout this Petition, Petitioner and Victims have been denied access to the courts to ensure respect for their legal rights. The Department of Health and Human Services Social Services and Child Protective Services (CPS) violated all of Petitioner's parental rights and Petitioner has never seen or heard from her children since. The truth about what happened has been kept from Victims for years, they had no access to the justice system because it was heavily influenced by the CPS and Petitioner reasonably believed the lives of the Victims could be at risk if she brought more challenges in the courts.

204. Moreover, the United States is in violation of Article XXIII of the American Declaration, which provides, “Every person has a right to own such private property as meets the essential needs of decent living and helps to maintain the dignity of the individual and of the home.” Petitioner and Victims were denied their homes, businesses, and other private

property as a result of the 1995 rampage.

205. Finally, the United States is in violation of Article XXV of the American Declaration, which provides: No person may be deprived of his liberty except in the cases and according to the procedures established by preexisting law...Every individual who has been deprived of his liberty has the right to have the legality of his detention ascertained without delay by a court, and the right to be tried without undue delay or, otherwise, to be released. He also has the right to humane treatment during the time he is in custody.

206. Petitioner and Victims were held in “protective custody,” a euphemism for illegal imprisonment, in a handful of hastily set-up internment centers, including temporary and permanent foster care. Petitioner was treated like chattel and, in conduct reminiscent of slavery.

D. The Alleged Violations Are Imputable to the United States

207. The United States is responsible under international law for the actions taken by officials of the state of California and the cities of Napa and Susanville; the state of Oregon and the city of Klamath Falls. These states are constituents of the United States, having been admitted as such in _____. Napa is a city incorporated in ____.

208. The Articles on State Responsibility make clear that international law considers a state responsible for acts illegal under international law whenever the act is taken by any organ of the state, be it as a constituent unit.

209. Such responsibility extends to actions taken by persons holding status as state officials under the law of the state in question. Accordingly, the actions taken by officials of the state of California and the cities of Napa and Susanville; the state of Oregon and the city of Klamath Falls can be imputed under international law to the United States.

210. The United States is also responsible under international law for the actions or inactions taken and carried out by city, state and federal officials, and violations undertaken by private individuals deputized⁴⁰ by officials of the state of California and Oregon.

211. As state officials, even temporary ones, their actions are directly attributable to the United States, according to Article 4 of the Draft Articles on State Responsibility, as discussed above. Nevertheless, even if these private individuals are not considered state officials, their conduct is attributable to the United States, as they were directed by state officials and acted on the order of state officials. Article 8 of the Draft Articles on State Responsibility provides for state responsibility for acts taken by private individuals when that conduct comes at the direction or under the control of the state, and the State Responsibility Commentaries note that the attribution to the State of conduct in fact authorized by it is widely accepted in international jurisprudence...Most commonly cases of this kind will arise where State organs supplement their own action by recruiting or instigating private persons

⁴⁰ When they were "deputized", these private individuals became state officials under international law, for the duration of their deputization.

or groups who act as ‘auxiliaries’ while remaining outside the official structure of the State.

212. To the extent that the deputization of private individuals does not make them state officials, it clearly falls within Article 8, as explained by the Commentaries, and the conduct of deputized and otherwise organized private individuals therefore is attributable to the United States. Similarly, the Inter-American Court of Human Rights has held that “under international law a State is responsible for the acts of its agents undertaken in their official capacity and for their omissions, even when those agents act outside the sphere of their authority or violate internal law.” See *id.* at art. 8 (“The conduct of a person or group of persons shall be considered an act of a State under international law if the person or group of persons is in fact acting on the instructions of, or under the direction or control of, that State in carrying out the conduct.”).

VIII.

THE OBLIGATIONS OF THE UNITED STATES

213. The United States has a legal obligation to compensate Petitioner and Victims for the harms they suffered. The Inter-American Commission on Human Rights has made clear that: In addition to the obligation to investigate and punish all human rights violations committed by its agents, the State also has the obligation to compensate the victims of such violations, or their next of kin, as applicable. In this regard, “a rule of common law, which is one of the fundamental principles of current international law on the responsibility of States” is the one pursuant to which, “when a wrongful act occurs that is imputable to a State, the latter incurs international responsibility for violation of an international rule, and thus incurs a duty to make reparation.”

214. Similarly, the Draft Articles on State Responsibility provide that: A State responsible for an internationally wrongful act is under an obligation to make restitution, that is, to reestablish the situation which existed before the wrongful act was committed, provided and to the extent that restitution: (a) Is not materially impossible; (b) Does not involve a burden out of all proportion to the benefit deriving from restitution instead of compensation.

215. The State responsible for an internationally wrongful act is under an obligation to compensate for the damage caused thereby, insofar as such damage is not made good by restitution. The compensation shall cover any financially assessable damage including loss of profits insofar as it is established.

216. The State responsible for an internationally wrongful act is under an obligation to give satisfaction for the injury caused by that act insofar as it cannot be made good by restitution or compensation. Satisfaction may consist in an acknowledgment of the breach, an expression of regret, a formal apology or another appropriate modality.

217. Satisfaction shall not be out of proportion to the injury and may not take a form humiliating to the responsible State. In addition, the Draft Articles make clear that: “The responsible State is under an obligation to make full reparation for the injury caused by the internationally wrongful act. Injury includes any damage, whether material or moral,

caused by the internationally wrongful act of a State.”

218. The Draft Articles also explains that “There is a breach of an international obligation by a State when an act of that State is not in conformity with what is required of it by that obligation, regardless of its origin or character.” As the commentary to these draft articles show, “International obligations may be established by a customary rule of international law, by a treaty or by a general principle applicable within the international legal order.⁴¹”

219. to one UN expert, in a report commissioned by the United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities, the reparation that must be provided includes compensation for: any economically assessable damage resulting from violations of human rights and humanitarian law, such as: a) Physical or mental harm, including pain, suffering and emotional distress; b) Lost opportunities including education; c) Material damages and loss of earnings, including loss of earning potential; d) Harm to reputation or dignity; e) Costs required for legal or expert assistance.⁴²

220. Updated Set of Principles for the Protection and Promotion of Human Rights Through Action to Combat Impunity similarly says, “Any human rights violation gives rise to a right to reparation on the part of the victims or his or her beneficiaries, implying a duty on the part of the State to make reparation and the possibility for the victim to seek redress from the perpetrator⁴³.”

VX.

RELIEF SOUGHT

221. Heretofore, the United States has not provided any of these reparations for Petitioner and Victims. As such, Petitioner and Victims request that the Commission recommend that the United States grant victims an effective remedy for the harms they have suffered and provide them with appropriate compensation and restitution.

222. Petitioner and Victims ask the Commission to find that the actions of the United States’ Federal Courts in dismissing this action failed to comply with the provisions of the Tulsa-Greenwood Race Riot Claims Accountability Act of 2007, the Convention Against Torture and Other Cruel, Inhuman Or Degrading Treatment or Punishment, the Committee on the Elimination of Discrimination against Women, the International Covenant on Civil and Political Rights, and the American Declaration of the Rights and Duties of Man. As such, we ask that the Commission recommend that U.S. Federal Courts hear this case on

41 The commentary continues: “In the *Rainbow Warrior* , the Tribunal said any violation by a State of any obligation, of whatever origin, gives rise to State responsibility and consequently, to the duty of reparation.”

42 *Rainbow Warrior Arbitration* (New Zealand/France), UNRIAA 217, 251 para. 75 (1990); see also *Barcelona Traction*, 1970 I.C.J. at para. 86 (regarding breach of an international obligation arising out of a treaty or a general rule of law).

43 The Tulsa Commission recommended: 1) Direct payment of reparations to survivors of the Tulsa Race rampage 2) Direct payment of reparations to descendants of the survivors of the Tulsa Race rampage 3) A scholarship fund available to students affected by the Tulsa Race rampage. 4) Establishment of an economic development enterprise zone I the historic area of the Greenwood District...

the merits and drop the statute of limitations objection or any other objection.

223. A fine precision in the process of extrajudicial remedy consisting of judicial intervention for the purpose of compelling reparation must be insisted upon because the United States Respondents disregarded Petitioner's imposition in deciding whether to impose another hardship and to provide an efficient process to protect this Petitioner from undeserved economic loss, intentional abuses and to protect this Petitioner from unmerited harassment and dispossession by Respondents USA.

I, Kini Cosma, hereby declares under penalty of perjury that the foregoing is true and correct to the best of my knowledge

Dated this _____ this day of _____, 2009: Signed: _____
Kini Cosma, Petitioner

Respectfully submitted,
Kini Cosma

**ANNEX:
LIST OF RESPONDENTS**

CITY OF NAPA POLICE SERGEANT RANDY BOWMAN, COURT OF APPEAL OF THE STATE OF CALIFORNIA, SUPREME COURT OF CALIFORNIA, GEORGE-CHIEF JUSTICE FIRST APPELLATE DISTRICT, DIVISION ONE STEIN, J. ACTING P.J., STRANKMAN, P.J., THE UNITED STATES DISTRICT COURT-NORTHERN DISTRICT OF CALIFORNIA: ARMSTRONG, JUDGE SAUNDRA B. SBA; ZIMMERMAN, MAGISTRATE JUDGE BERNARD BZ, UNITED STATES DISTRICT COURT-EASTERN DISTRICT OF CALIFORNIA: DAVID F. LEVI, SANDRA M. SNYDER, GREGORY G. HOLLOWES, WILLIAM SHUBBS, GARLAND E. BURRELL, THE NINTH CIRCUIT COURT OF APPEALS; CIRCUIT JUDGES: O'SCANNLAIN, FERNANDEZ, TASHIMA, T.G. NELSON, KLEINFELD, FARRIS, BRUNETTI, SILVERMAN, LEAVY, BERZON, THE PLACER COUNTY COURT, THE LASSEN COUNTY SUPERIOR COURT, COUNTY OF LASSEN, DEPARTMENT OF COMMUNITY DEVELOPMENT, THE NAPA COUNTY SUPERIOR COURT OF THE STATE OF CALIFORNIA, RONALD T.L. YOUNG AND THEIR ATTORNEYS OF RECORD : [PUBLIC AND PRIVATE AGENCIES THEREOF, THE CALIFORNIA BAR ASSOCIATION, THE UNITED STATES DEPARTMENT OF JUSTICE] LASSEN COUNTY GRAND JURY, COLDWELL BANKER AFFILIATES, INTERTRIBAL COUNSEL, ELTON KANTOR, KEM KANTOR, FEDERAL CLAIMS COURT, JUDGE SMITH, KLAMATH COUNTY CIRCUIT COURT JUDGE(S) ROXANNE OSBORN AND RICHARD RAMBO, THE SUSANVILLE POLICE DEPARTMENT, THE LASSEN COUNTY SHERIFF'S DEPARTMENT, THE KLAMATH.FALLS POLICE DEPARTMENT, THE KLAMATH COUNTY SHERIFF'S DEPARTMENT.

Proof of Service
State Of Oregon. County of Klamath

I hereby certify that I made service of the following legal documents:

**PETITION ALLEGING VIOLATIONS OF THE HUMAN RIGHTS OF
KINI COSMA ET AL. BY THE UNITED STATES OF AMERICA**

upon the individuals and other legal entities to be served, named below, said documents mentioned herein, by mailing such true copies to him/her by first class mail. Addressed hereto attached.

On:

From:

I further certify that I am a competent person 18 years of age or older and a resident of state of service or the State of Oregon, and that **I am a party to** officer, director or employee of, nor attorney for any party, corporate or otherwise; that the person, firm or corporation served by me is the identical person, firm or corporation served by named in the action.

Dated:

SIGNATURE

TYPE OR PRINT NAME

ADDRESS

<p>Inter-American Commission On Human Rights 1889 F Street, N.W. Washington, D.C. 20006</p> <p>Committee on the Elimination of Discrimination against Women c/o Division for the Advancement of Women, Department of Economic and Social Affairs United Nations Secretariat 2 United Nations Plaza DC-2/12th Floor New York, NY 10017</p> <p>HOUSE OF REPRESENTATIVES, SUBCOMMITTEE ON THE CONSTITUTION, CIVIL RIGHTS, AND CIVIL LIBERTIES, COMMITTEE ON THE JUDICIARY, Washington, DC. Room 2141, Rayburn House Office Building,</p> <p>GAY J.MCDOUGALL RACHEL S. TAYLOR GLOBAL RIGHTS (Headquarters) 1200 18th St., N.W. Suite 602 Washington, DC 20036</p> <p>California State Department of Motor Vehicles Licensing Operations Division P.O. Box 942890, Mail Station J-233 Sacramento, CA 94290-0001</p>	<p>Organization of American States 17th Street and Constitution Ave, N.W. Washington, D.C. 20006</p> <p>United States of America Petitions Team Office of the High Commissioner for Human rights United Nations Office at Geneva 1211 Geneva 10, Switzerland</p> <p>Oregon Department of Transportation DMV Services 1905 Lana Avenue NE Salem, OR 97314</p> <p>Commission/Sub-Commission Team (1503 Procedure) Treaties and Commission Branch Office of the High Commissioner for Human Rights United Nations Office at Geneva 1211 Geneva 10, Switzerland</p> <p>INSTITUTE FOR RACE AND JUSTICE HARVARD LAW SCHOOL* 1575 Massachusetts Ave. 516 Hauser Hall Cambridge, MA 02138</p>
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