

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

**REQUEST BY THE AMERICAN CIVIL LIBERTIES UNION FOUNDATION,
AMERICAN CIVIL LIBERTIES UNION OF PUERTO RICO, AND THE
INTERNATIONAL HUMAN RIGHTS LAW CLINIC AT AMERICAN UNIVERSITY
WASHINGTON COLLEGE OF LAW FOR PRECAUTIONARY MEASURES
UNDER ARTICLE 25(2) OF THE COMMISSION'S RULES OF PROCEDURE
AGAINST THE UNITED STATES OF AMERICA**

**ON BEHALF OF
CELINA ADON REYES;
ANTONIA BRITO;
HEATHER CHITTUM;
MIRIAM CRUZ;
MARITZA DE LA CRUZ;
HAYDEE ESCALERA;
FRANCISCA FIGUEROA TRINIDAD;
ALFREDO GAYA GARCÍA;
KAYRA ILARRAZA VÁZQUEZ;
BLANCA IRIS CINTRÓN;
EUFRASIO (“WILLIAM”) MEJÍA;
VICTORIA DE JESÚS DE GÓMEZ;
LAURA MOTA-VÁSQUEZ;
AND
ALIDA PACA DE JESÚS**

Submitted for the Petitioners, under the provisions of Article 23 of the Commission's
Rules of Procedure, by:

Chandra S. Bhatnagar
Staff Attorney
Human Rights Program
American Civil Liberties Union
125 Broad Street, 18th Floor
New York, NY 10004
(212) 519-7840

William Ramirez, Esq
Executive Director

Josue Gonzalez-Ortiz
Staff Attorney
American Civil Liberties Union
Puerto Rico National Chapter
Union Plaza, Suite 205
416 Ave. Ponce de León
San Juan, Puerto Rico 00918
Phone: (787) 753-8493

Smita Rao, Student Attorney
Andrea Pestone, Student Attorney
Meetali Jain, Faculty Supervisor
International Human Rights Law Clinic
American University Washington College of Law
4801 Massachusetts Avenue, N.W., Suite 417
Washington, D.C. 20016
Phone: (202) 274-4147

Date Submitted

I. INTRODUCTION

Villas del Sol is a community comprising 211 families, most of them women and children. The community is situated outside the municipality of Toa Baja, in the Commonwealth of Puerto Rico, which forms part of the United States of America. The Puerto Rican government has ordered the community to vacate the land where some have resided for more than a decade, as the land on which Villas del Sol is located is a Federal Emergency Management Agency (“FEMA”) designated flood plain. Since August, 2009, the residents of Villas del Sol have been deprived of access to basic water and electrical services, which has resulted in a high incidence of severe physical and mental illnesses among community members. Residents have also faced police brutality, 24-hour police and camera surveillance, and the constant fear of imminent danger to their persons and their homes.

Numerous media outlets within Puerto Rico have documented the human rights violations that have taken place and continue to occur in Villas del Sol. On April 21, 2010, after facing many months of being denied access to water and electrical services, community members agreed to leave the land before May 14, 2010 and, under pressure, consented to an eviction judgment. As of the date of this filing, the government of Puerto Rico has not yet made public the location of the plot of land identified for relocation. The proposed relocation raises many challenges. For example, logistically, it will be almost impossible for the residents to relocate their homes and families in the next three weeks. Hence, it is almost certain that some residents of Villas del Sol, including the named petitioners, may need to remain on the plot of land beyond the stipulated date.

Additionally, upon information and belief, the relocation plan includes the construction of latrines or a septic system, which leads the residents to fear that there are no existing sewer facilities on the land where the families are to be relocated. With so many families and children being affected, the lack of concrete plans and infrastructure regarding available water and electricity raises serious concerns about continued denial of access to these basic services. This threat is even more urgent, as residents have been denied adequate water and electricity since August, 2009, and the lack of these services has resulted in grave threats to life and health. Another logistical ambiguity is what action the Puerto Rican authorities will take if the residents are unable to relocate within the given time period. Moreover, if the relocation compliance is not timely for the logistical reasons enumerated above, community members justifiably fear physical violence similar to what the community endured in August, 2009, when police engaged in brutality and abuse against Villas del Sol residents.

Article 25 of the Inter-American Commission Rules of Procedure provides that "in serious and urgent situations," precautionary measures may be taken to "prevent irreparable harm to persons under the jurisdiction of the State concerned, independently of any petition or case" or "due to their association with an organization, a group, or a community with identified or identifiable members."¹

Here, the residents of Villas del Sol have suffered numerous physical and mental illnesses and live in constant fear of imminent danger to their lives. The denial of access to water has led to dangerous incidences of the H1N1 virus, dengue, anemia, malnutrition, gastro-intestinal problems, skin infections, and urinary tract infections. Lack of access to electricity has caused the hospitalization of numerous residents for

¹ Rules of Procedure of the Inter-American Commission on Human Rights, Art. 25(3).

asthma and other respiratory illnesses due to generator fume exposure. Villas del Sol community members have experienced police violence, during which children were pepper-sprayed and women were beaten. Housing authorities have attempted to demolish homes, sometimes with people still inside. The residents have been subject to physical violence by the Puerto Rican police force, are continuously denied access to emergency medical services, and are vulnerable to forced evictions from their homes. Moreover, the cumulative effect of the current living conditions in Villas del Sol has caused an increase in mental illnesses and the exacerbation of pre-existing conditions. Many community members suffer from high rates of depression, anxiety, and stress-related high blood pressure.

The actions enumerated above, violate numerous provisions of the American Declaration on the Rights and Duties of Man (“American Declaration”), including Article I, the right to life, liberty and personal security, Article VII, the right to protection for mothers and children, and Article XI, the preservation of life and health and well-being.

To date, no court in the Commonwealth of Puerto Rico has granted relief to Villas del Sol residents, despite the urgent necessity for such intervention.

Without the intervention of the Commission, the community members are at further risk of physical harm to their lives, increased mental suffering, and possible forced eviction as the process for relocation unfolds. The Commission has the competence and authority to grant Villas del Sol residents precautionary measures. If granted, these measures will prevent further irreparable harm to petitioners.

Accordingly, Petitioners, members of the Villas del Sol community in Toa Baja, Puerto Rico, a Commonwealth of the United States, respectfully request the Inter-

American Commission on Human Rights (“The Commission”) to issue Precautionary Measures against the United States, to prevent irreparable harm to Villas del Sol residents.

II. STATEMENT OF FACTS

A. Background of Villas del Sol

Villas del Sol is a community located in the town of Toa Baja, a municipality on the northern coast of the Commonwealth of Puerto Rico. The community covers approximately 4,400 square meters.² Villas del Sol is home to approximately 211 families, including 300 children, primarily composed of Dominican nationals and persons of Dominican descent, but also including native Puerto Ricans and other American citizens.³ The majority of the families are comprised of single mothers and their children.⁴

Upon information and belief, the community was first founded in the mid-1990’s. In 1998, Hurricane George devastated parts of Puerto Rico and severely flooded the area where Villas del Sol is located. The Federal Emergency Management Agency ("FEMA") declared the area a flood zone and encouraged the Puerto Rican government to evacuate

² See Primera Hora.com, *Por ahora no hay acuerdos con los residentes de Villas del Sol*, 13 agosto 2009. As a measure of area, 1 *cuerda* = 440 square meters or 527 square yards. Russ Rowlett & University of North Carolina at Chapel Hill, A Dictionary of Units of Measurement, available at <http://www.unc.edu/~rowlett/units/dictC.html>.

³ See, e.g., Mike Melia, *Caribbean islands crack down on illegal immigrants*, Associated Press, 5 Aug. 2009. available at <http://abcnews.go.com/International/wireStory?id=8498287>; *Doctors Urge Return of Water, Power to Villas del Sol*, Puerto Rico Daily Sun, 2 Dec. 2009; Affidavit of Alida Paca de Jesús ¶ 7, at Exhibit A [hereinafter *Paca de Jesús*].

⁴ See, e.g., ACLU, Letter to Kenneth McClintock, 25 de noviembre 2009, at Exhibit D.

residents.⁵ The government and Housing Authority attempted to move all of the families to a low-income housing project in Campanilla, Toa Baja.⁶ Many families were relocated to Campanilla.⁷ However, approximately twelve to twenty families were forced to remain in Villas del Sol because their requests to relocate to Campanilla were denied.⁸ The remaining families became the founders of the current Villas del Sol community.⁹

After 1998, the areas surrounding the residences were used mainly as a municipal garbage dump.¹⁰ Around 2002, groups of people from neighborhoods around the island came to Villas del Sol, looking for a permanent place to reside. As people began moving to Villas del Sol, they first needed to clean up the land that was still being used as a garbage dump. They spent weekends removing trash and debris from the land, hired tractors to pass over and level the land, and started buying materials with which to begin building their own homes. All of this was done with the knowledge and acquiescence of municipal authorities. In fact, the Mayor, Aníbal Vega Borges, informed the prospective residents that the municipality would remove all the debris and trash if the residents moved it to the nearby road.¹¹ The current residents of Villas del Sol have made great financial sacrifices and dedicated substantial effort to building Villas del Sol, spending

⁵ Cándida Cotto, *ONU verá el caso FEMA habló de reubicación, no desalojo, en Villas del Sol*, Claridad, available at

<http://www.claridadpuertorico.com/content.html?news=07E77E77304856266FA6746B9912ED77>.

⁶ Fortuño: *Villas del Sol Families Should Move Out*, Puerto Rico Daily Sun, Aug. 5, 2009.

⁷ *Utilities cut service to Villas del Sol Squatters*, CaribbeanBusinessPR.com, 7 Aug. 2009, available at http://www.caribbeanbusinesspr.com/news03.php?nt_id=33915&ct_id=1.

⁸ See e.g., *Puerto Rico to Evict Dominicans from Illegal Settlement*, Latin American Herald Tribune, available at <http://laht.com/article.asp?CategoryId=14092&ArticleId=340853> (noting that the "shantytown" has existed for fifteen years).

⁹ See Affidavit of Antonia Brito ¶ 1, at Exhibit A [hereinafter *Brito*].

¹⁰ See Affidavit of Maritza de la Cruz ¶¶ 2, 16, at Exhibit A [hereinafter *de la Cruz*].

¹¹ de la Cruz ¶ 2.

between \$US 5,000-45,000 each, on constructing their homes and improving the community.¹²

In 2004, during the Mayoral election, Mayor Borges went to the Villas del Sol community seeking votes. Community members allege that the Mayor provided official connections to facilitate the residents' access to municipality water and electrical services.¹³ Until 2007, new residents continued to move into Villas del Sol and build their homes. The residents have not had any problems with drugs, violence, or crime and they built a community of people that work hard, pay taxes, and deserve the same rights and privileges as all other residents of Puerto Rico.¹⁴

B. The Petitioners face imminent and irreparable harm as a result of their current living situation.

1. Government-directed violence threatens the lives of Villas del Sol residents.

a. The Puerto Rican Housing Authority threatens to destroy the homes of Villas del Sol residents.

In 2007, Virginia Diaz, Special Assistant to the Secretary of the *Departamento de Vivienda*, the Puerto Rican housing authority, arrived at the community with bulldozers and tractors. Without any warning to the residents of Villas del Sol, Ms. Diaz ordered the destruction of at least thirty homes in the community.¹⁵ Residents tell stories of community members running from their homes as the bulldozers approached, while other

¹² *Id.*

¹³ See also *Prepa enters Villas del Sol Fray*. Caribbeanbusinesspr.com, available at http://www.caribbeanbusinesspr.com/news03.php?nt_id=33842&ct_id=1 (commenting that then-Governor Anibal Acevedo Vila not only accepted residents of Villas del Sol but disbursed \$50,000 from the Emergency Fund when toxic chemicals were dumped in the creek next to the community); Affidavit of Alfredo Gaya Garcia ¶ 9, at Exhibit A [hereinafter *Garcia*].

¹⁴ See de la Cruz ¶ 3; Affidavit of Heather Chittum ¶ 14, at Exhibit A [hereinafter *Chittum*]; Affidavit of Eufrasio ("William") Mejia ¶ 15, at Exhibit A [hereinafter *Mejia*].

¹⁵ Mejia ¶ 7.

homes were bulldozed with occupants still inside. Many community members united to stand in front of homes, risking their lives, to protect the houses and the people inside. During the destruction, Ms. Diaz was heard making racial slurs regarding the Dominican-populated community, calling them "illegals" and telling the residents that they should "go back where they came from."¹⁶ Ms. Diaz eventually left, but she assured the terrified community that she would soon return.

Bulldozers returned to the community on at least one other occasion, two years later, in early summer 2009, causing a similar state of hysteria among the residents.¹⁷ These instances have created a state of constant fear for Villas del Sol community members. Some residents have expressed their inability to sleep at night for fear that the Housing Authority will return and tear down their homes while they are sleeping, because the Housing Authority continues to threaten police action to forcibly remove residents from their homes.¹⁸ Residents are desperate to protect their possessions and prevent forcible eviction, and remain in imminent danger of extreme violence and loss of life, should the Puerto Rican government return to implement a full eviction as is expected to happen on May 14th 2010.¹⁹

¹⁶ *Id.*

¹⁷ *See* Affidavit of Laura Mota-Vásquez ¶ 3, at Exhibit A [hereinafter *Mota-Vásquez*].

¹⁸ *See Id.* ¶ 14; de la Cruz ¶ 17; Brito ¶ 8.

¹⁹ *See* Escalera ¶ 11 ("I would never leave my house; the police would have to kill me first."); de la Cruz, ¶ 17 ("If the police officers come again . . . we will stay, we will lock ourselves in the house, we don't have another place to go. This is all we have and we have to keep the authorities from taking it."); Mejía ¶ 15; Paca de Jesús ¶ 8; Affidavit of Miriam Cruz ¶ 12, at Exhibit A ("The land on which I built my house may not be mine but the house and the possessions are mine. I will fight for them.") [hereinafter *Miriam*].

b. The Puerto Rican police force threatens the lives of Villas del Sol residents.

On August 3rd, 2009, at approximately 6:00 a.m., police officers²⁰ in full riot gear stormed the Villas del Sol community.²¹ The officers wore helmets, bulletproof vests and carried batons and shields and were armed with semi-automatic weapons, which they displayed for residents to see. Scores of officers surrounded the community.²² Some officers arrived on horses and others arrived with large dogs. The residents awoke to an influx of noise, screaming and general terror, with no knowledge of what was happening.²³ A police helicopter flew overhead, creating an even greater sense of panic. Trucks arrived with concrete barriers as well as bulldozers and other heavy equipment. The police placed barriers at the edges of the community, effectively blocking all entry and exit to and from Villas del Sol.²⁴ Residents locked arms and stood in front of the police officers in an attempt to block officers' entrance into the community. This non-violent action by the residents of Villas del Sol was an effort to prevent the police officers from erecting the concrete barriers and entering the community.²⁵

During this struggle, which lasted for seven hours, the police indiscriminately assaulted and pepper-sprayed men, women, and children.²⁶ Police officers used several

²⁰ It is unclear who, exactly, is responsible for the August 3rd incident and whether it was one specific police force or many combined. Some residents and news reports described the group as the *Fuerza de Choque*, or riot squad. Other residents called them the Special Forces, a SWAT team, or simply neighborhood police. It is similarly unclear whether the police officers stationed at the community entrance are members of the Toa Baja police department or another division. Accordingly, throughout the Request, we refer to all law enforcement officials as "police" or "police officers."

²¹ See Villas del Sol Video, at Exhibit B, [hereinafter *Villas del Sol Video*].

²² See de la Cruz ¶ 4; Mejía ¶ 8; Villas del Sol Video.

²³ See Mejía ¶¶ 8, 9; Mota-Vásquez ¶¶ 4-6; Brito ¶ 7. Affidavit of Haydee Escalera ¶ 7, at Exhibit A [hereinafter *Escalera*].

²⁴ Villas del Sol Video.

²⁵ Villas del Sol.

²⁶ *Altercation Between Police and Protesters in Toa Baja Community*, Puerto Rico Daily Sun, 4 Aug. 2009.

cans of pepper-spray and targeted entire crowds of people.²⁷ The use of pepper spray was so severe that the air was contaminated with pepper-spray for days following this incident.²⁸ During this attack, Eufrasio (“William”) Mejía was tasered eight separate times by police officers and afterwards was denied medical assistance by the police, despite the fact that he showed no resistance to the officers’ authority.²⁹ Maritza de la Cruz, who was eight months pregnant at the time, was struck multiple times with a baton, including once on her pregnant stomach, all while other officers looked on. A six-year-old child was beaten on the back with a baton and then pepper-sprayed by police officers.³⁰ Police officers threw Laura Mota-Vásquez over a concrete barrier and then beat her on her legs.³¹ Police officers told the residents that they were going to kick everyone out, kill them, and knock down their homes.³² Similar threats have been made multiple times since December 2009.³³ When questioned about the reasons for this treatment, the officers responded, "This is our job; we don't care about you."³⁴

Following this incident, the Puerto Rican government established a permanent 24-hour police presence surrounding the Villas del Sol community and installed surveillance cameras on poles erected at the outskirts of the community.³⁵ Residents now constantly live in fear of the police officers, who remain just outside the community.³⁶ Police officers often knock on doors and are hostile toward the residents.³⁷ Sometimes they

²⁷ *Id.*; Villas del Sol Video.

²⁸ See Paca de Jesús ¶ 5.

²⁹ Mejía ¶ 8; see Mota-Vásquez ¶ 6; Affidavit of Blanca Iris Cintrón ¶ 9, at Exhibit A [hereinafter *Cintrón*].

³⁰ de la Cruz ¶ 6.

³¹ Mota-Vásquez ¶ 6; see Villas del Sol Video.

³² Mejía ¶ 8; Escalera ¶ 7.

³³ Paca de Jesús ¶ 7.

³⁴ Escalera ¶ 7.

³⁵ Villas del Sol Video.

³⁶ See de la Cruz ¶ 14.

³⁷ Mota-Vásquez ¶ 19.

harass the residents by arbitrarily detaining them and requesting identification.³⁸ Many residents fear that the officers will enter their homes and hurt or kill them.³⁹ The officers stationed outside of Villas del Sol are armed with heavy artillery and their presence threatens this otherwise peaceful community. Police officers have made it clear they will do what is necessary to carry out orders from the Puerto Rican authorities.⁴⁰

c. Police authorities have impeded residents' access to emergency medical services.

On August 3rd, following the beating that Martiza de la Cruz suffered at the hands of a police officer, she felt that her baby had stopped moving. Fearing for the safety of her unborn child, Maritza requested to be taken to the hospital. Police officers refused to permit the ambulance to enter Villas del Sol and neighbors had to drive her to the hospital.⁴¹ On the same day, Heather Chittum, a bipolar, diabetic and anemic woman, who was seven months pregnant at the time, suffered from an unrelated incidence of low blood sugar, which resulted in an asthma and panic attack. The police again refused to let an ambulance into the community. Heather's neighbors were forced to carry her to the nearest hospital for necessary treatment.⁴² This interference with emergency medical services continued even after the events of August 3rd. In February 2010, Kayra Ilarraza Vázquez, a young Puerto Rican woman, who, as a result of two brain tumors, suffers frequent seizures, experienced an epileptic fit. When asked for assistance, the police

³⁸ Mejía ¶ 12.

³⁹ Paca de Jesús ¶ 8.

⁴⁰ *See Villas del Sol fight Goes International*, Puerto Rico Daily Sun, 25 Nov. 2009.

⁴¹ de la Cruz ¶ 5.

⁴² Chittum ¶ 9.

officers stationed outside of Villas del Sol refused to call an ambulance.⁴³ Despite the fact that Kayra was not breathing, the police officers merely stated, "One less Dominican won't be missed."⁴⁴ Another resident had to take Kayra to the hospital.⁴⁵

2. The denial of access to basic services including water and electricity has severely harmed and continues to harm the health of Villas del Sol residents.

For many years, Villas del Sol residents had established water and power services. Throughout this time, the residents repeatedly sought to lawfully obtain water and power connections, in order to bring the community into compliance with applicable laws and regulations. However, these efforts were rebuffed.⁴⁶ In August 2009, the Puerto Rican authorities shut off all existing electrical and water services to Villas del Sol.⁴⁷ After the services were shut off, community residents attempted to meet with water and electricity authorities. Residents requested that services be reinstated and asked for the opportunity to pay for water and electricity.⁴⁸ Despite these attempts, the authorities continued to refuse access to these basic services. Moreover, the police officers surrounding Villas del Sol monitor what, and who enters and exits the community so that they may intervene if anyone attempts to hook up their own electricity.⁴⁹ As a result of the denial of access to water and electrical services, community members have suffered serious and lasting

⁴³ Affidavit of Kayra Ilarraza Vásquez ¶ 6 [hereinafter *Ilarraza Vásquez*].

⁴⁴ Ilarraza Vásquez ¶ 6; *see also Villas del Sol Fight Goes International*, Puerto Rico Daily Sun, 25 Nov. 2009.

⁴⁵ Ilarraza Vásquez ¶ 6.

⁴⁶ *Puerto Rico to Evict Dominicans from Illegal Settlement*, Latin American Herald Tribune, 5 Apr. 2010, available at <http://laht.com/article.asp?CategoryId=14092&ArticleId=340853>.

⁴⁷ The water services were restored from December 15, 2009 until January 15, 2009 when they were cut off again.

⁴⁸ *Judge: Villas del Sol Does Not Have the Right to Electricity Reconnection*, Puerto Rico Daily Sun, 18 Dec. 2009; *Puerto Rico to Evict Dominicans from Illegal Settlement*, Latin American Herald Tribune, 5 Apr. 2010 available at <http://laht.com/article.asp?CategoryId=14092&ArticleId=340853>.

⁴⁹ *See de la Cruz* ¶ 15; *Mejía* ¶ 10; *Villas del Sol Video*.

health conditions that have significantly increased the risk of loss of life and health, particularly among the most vulnerable groups in the community: women, children, the elderly, and the mentally and physically disabled.⁵⁰

a. The government's intentional deprivation of access to adequate water supplies severely threatens the physical health of Villas del Sol residents.

The municipality provides water sporadically to the community, often late at night when the residents are sleeping; but there is never an advance warning of its arrival.⁵¹ This supply of water has given many residents both stomach problems and skin diseases.⁵² Some residents with no alternative water supply are forced to resort to collecting rainwater or utilizing water in a nearby creek polluted with trash and other debris.⁵³ For example, Alfredo Gaya García uses the creek water every day to bathe and wash his clothes because, after suffering a hernia, it is too difficult for him to carry the municipality water in buckets the seven blocks to his house.⁵⁴ Water supplies from these unsanitary sources have caused some women to experience recurring urinary tract infections ("UTIs")⁵⁵ that, if left untreated, can lead to chronic kidney infections, permanently damaging the kidneys.⁵⁶ Blanca Iris Cintrón, for example, has suffered

⁵⁰ As Villas del Sol is also comprised of a greater proportion of vulnerable groups than the society at large, this likewise increases the risk of significant health complications. *See also* Villas del Sol Video.

⁵¹ Mejía ¶ 4.

⁵² Paca de Jesús ¶ 4; Mota-Vásquez ¶ 10; Cintrón ¶, Miriam ¶ 6; Affidavit of Celina Adon Reyes ¶ 4 [hereinafter *Reyes*]; Affidavit of Victoria de Jesús de Gómez ¶¶ 3, 8 [hereinafter *Gómez*]; Miriam ¶ 3 (explaining that she does not trust the municipal water); Villas del Sol Video.

⁵³ García ¶ 2; Affidavit of Francisca Figueroa Trinidad ¶ 5 (using, instead, a small dirty well next to her house to get water); [hereinafter *Trinidad*]; Villas del Sol Video.

⁵⁴ García ¶ 2.

⁵⁵ Cintrón ¶ 4.

⁵⁶ Urinary Tract Infection (UTI), Complications, MayoClinic.com, *available at* <http://www.mayoclinic.com/health/urinary-tract-infection/DS00286/DSECTION=complications>.

several UTIs, resulting in fevers and other adverse medical effects since water services were terminated. Now, she must purchase bottled water for bathing.⁵⁷

Lack of proper hygiene and sanitation, as well as disease and overheating, all of which are endemic within the community, are direct results of the failure of the government to provide water services to Villas del Sol.⁵⁸ There has been an increased infestation of insects, cockroaches, and rats, all of which carry innumerable communicable diseases and germs.⁵⁹ The lack of proper hygiene and sanitation has resulted in serious and life-threatening illness. For example, Maritza de la Cruz's infant was hospitalized with the H1N1 virus.⁶⁰ The unhygienic situation has caused the three-year-old daughter of Victoria de Jesús Gómez, who suffers from gastric hemorrhage, to experience frequent intestinal infections and bouts of diarrhea and vomiting. She has been hospitalized three times.⁶¹ The Puerto Rico Physicians and Surgeons College made an "urgent" call to the government of Puerto Rico in December, highlighting that "the installation of these [utilities] is an urgent sanitary necessity, especially when we are in a

⁵⁷ Cintrón ¶ 4.

⁵⁸ Brito ¶ 6 (admitting to the inability of her family to wash their hands as frequently as in the past); Escalera ¶ 5 (explaining that she is forced to use more water to flush the toilet than to bathe herself); Trinidad ¶ 5 (confirming that her family uses the toilet two or three times without flushing); de la Cruz ¶ 8 (complaining about the inability to bathe her son as frequently as needed, as well as the inability to properly maintain and clean the area where her animals defecate); Mota-Vásquez ¶ 15 (worrying about the spread of germs in her refrigerator as a result of food spoilage); Chittum ¶ 10 (noting that she can't always clean up after her young daughter who sometimes goes to the bathroom on the floor).

⁵⁹ Brito ¶ 5; *Report of the WHO Meeting on Rodent Ecology, Population Dynamics and Surveillance Technology in Mediterranean Countries*, World Health Organization, 14-16 Apr. 1992, WHO/CDS/VPM/93.113, available at http://whqlibdoc.who.int/hq/1993/WHO_CDS_VPH_93.113.pdf (listing diseases that are carried and transmitted by rodents, including leptospirosis, plague, salmonellosis, yersiniosis, melioidosis, tularaemia, rickettsial pox, flea-borne typhus, haemorrhagic fever with renal syndrome, lymphocytic choriomeningitis, dermatophytoses, Lassa fever, and rat-bite fever, among others); Jan A. Rozendaal, *Vector control: Methods for use by individuals and communities*, World Health Organization (1997), available at http://www.who.int/water_sanitation_health/resources/vectorcontrol/en/index.html (explaining that cockroaches are "proven or suspected" carriers of diarrhea, dysentery, cholera, leprosy, plague, typhoid fever, viral diseases, and often cause aggravations of skin conditions and respiratory illnesses).

⁶⁰ de la Cruz ¶ 7; Villas del Sol Video.

⁶¹ Gómez ¶ 3, 8.

time of high incidence of dengue and an H1N1 influenza epidemic."⁶² Moreover, as a result of the intense tropical climate, the residents regularly become over-heated due to the inadequate amount of water.⁶³ In addition to having an insufficient amount of drinking water, the residents are forced to bathe significantly less than they did before.⁶⁴

It also takes much care and energy to prevent the water from being contaminated with mosquito larvae. Residents routinely add bleach to their water,⁶⁵ which can be dangerous in excess amounts. Additionally, because residents must store the water they collect,⁶⁶ there has been an inevitable increase in mosquitoes and mosquito larvae,⁶⁷ and consequently dangerous incidences of dengue fever⁶⁸ as well as pervasive fear of contracting the disease.⁶⁹ Dengue fever is an illness that is contracted through mosquito bites and the likelihood of infection increases when water is stored in uncovered containers, allowing for mosquito larvae to accumulate.⁷⁰ Kayra Ilarraza Vázquez contracted a dangerous form of dengue fever in November 2009 and again in January 2010.⁷¹ Victoria de Jesús de Gómez's daughter also contracted dengue fever soon after the water was cut off, causing further complications to her already-sensitive gastrointestinal system.⁷² Dengue can cause an incapacitating high fever, with severe headaches, pain behind the eyes, muscle and joint pain, and rash. There is no specific

⁶² *Doctors Urge Return of Water, Power to Villas del Sol*. Puerto Rico Daily Sun. 2 Dec. 2009.

⁶³ See Mota-Vásquez ¶ 9; Mejía ¶ 8; Paca de Jesús ¶ 4; Trinidad ¶ 5.

⁶⁴ Trinidad ¶ 5; de la Cruz ¶ 8; Escalera ¶ 5.

⁶⁵ Mejía ¶ 2.

⁶⁶ Villas del Sol Video.

⁶⁷ Villas del Sol Video; Trinidad ¶ 5.

⁶⁸ Ilarraza Vázquez ¶ 6; Cintrón ¶ 5; Gómez ¶ 3 (contracting dengue immediately after services were cut off); Villas del Sol Video.

⁶⁹ Brito ¶ 5; Chittum ¶ 11.

⁷⁰ Frequently Asked Questions on Dengue Fever, The Center for Disease Control, *available at* <http://www.cdc.gov/dengue/fAQFacts/index.html>.

⁷¹ Ilarraza Vázquez ¶ 6.

⁷² de la Cruz ¶ 3.

antiviral medication for the disease. Dengue hemorrhagic fever is a potentially lethal complication, mainly affecting children.⁷³

When financially possible, residents who fear the dangers associated with water supplies from these unsanitary sources purchase their water supply to use for drinking, cooking, and bathing.⁷⁴ Because the residents are required to spend so much money on water, they do not have as much to pay for food for themselves and their children, leading to problems with anemia and malnutrition.⁷⁵ Heather Chittum and her husband, for example, can afford to consume only one meal per day because now they must budget a greater portion of their small income toward purchasing bottled water, ice for their baby's milk and gas for their generator.⁷⁶ Some residents with pre-existing conditions do not have enough water to take the pills that they require to regulate their conditions.⁷⁷ One resident, Haydee Escalera, is an epileptic and diabetic who suffers extreme migraines due to the lack of ventilation and the little amount of water available to drink. Haydee's migraines cause her to vomit, which precipitates seizures.⁷⁸

b. The government's intentional deprivation of access to electricity severely threatens the health of Villas del Sol residents.

In addition to the deprivation of access to water services, the similar deprivation of electrical services has also caused severe health problems among the residents of Villas del Sol. Many residents with pre-existing conditions have had their conditions exacerbated because of the lack of electrical services. Before services were cut off, residents used electricity for various purposes, such as refrigerated storage of insulin for

⁷³ Health Topics, Dengue, World Health Organization, *available at* <http://www.who.int/topics/dengue/en/>.

⁷⁴ Villas del Sol Video.

⁷⁵ See Chittum ¶¶ 7, 11; Cintrón ¶ 6; Brito ¶ 3; Trinidad ¶ 4.

⁷⁶ Chittum ¶¶ 7, 11.

⁷⁷ Trinidad ¶ 1; Ilarraza Vázquez ¶ 7; Miriam ¶ 7.

⁷⁸ Escalera ¶ 4.

diabetics or milk for infants,⁷⁹ or to power certain breathing treatments for asthmatics.⁸⁰ Haydee Escalera, for example, is forced to store her insulin in a location outside the community. Because of this, she has been rushed to the hospital at least twenty times when she was unable to access her medicine in time.⁸¹

Furthermore, because residents are denied regular electrical services, many of them use generators, which run on diesel gasoline and emit toxic fumes.⁸² A large number of community residents suffer from persistent coughs, congestion, and headaches, resulting in frequent visits to physicians, usually without any noticeable improvement.⁸³ These fumes have resulted in the deterioration in health of many residents who previously suffered from asthma or other respiratory illnesses. Some of them have experienced near-asphyxiation.⁸⁴ Some residents have been hospitalized due to respiratory problems they developed as a result of generator fumes.⁸⁵ For instance, Heather Chittum's four-month-old son was diagnosed with bronchitis and pneumonia soon after he was born, and spent almost three of the four months he has been alive in the hospital. His doctors attribute his sicknesses entirely to exposure to generator fumes.⁸⁶ Similarly, Victoria de Jesús de Gómez's daughter was rushed to the hospital after her pupils dilated and she became unresponsive. She was given emergency respiratory treatment. Again, the doctors told Victoria that her daughter needed fresh air and a

⁷⁹ *Id.* at ¶ 14; de la Cruz ¶ 11; Chittum ¶ 12.

⁸⁰ Mota-Vásquez ¶ 10.

⁸¹ Escalera ¶ 4.

⁸² Villas del Sol Video.

⁸³ Trinidad ¶ 6 (explaining that she has been diagnosed with conjunctivitis, rino-faringitis, and laryngitis); Gómez ¶ 6; Reyes ¶ 5.

⁸⁴ *Id.*; Chittum ¶ 5; Mota-Vásquez ¶¶ 10-11;; Mejía ¶ 3; Brito ¶ 3.

⁸⁵ Paca de Jesús ¶ 4.

⁸⁶ Chittum ¶ 5.

healthier environment.⁸⁷ Other residents have complained that they are afraid to sleep because they are worried about potential fires and the fumes of the exhaust.⁸⁸

c. Deprivation of access to water and electrical services has resulted in, and severely increased incidences of, mental health illnesses among Villas del Sol residents.

Increased incidences of mental health illnesses among residents of Villas del Sol are attributable to their desperate living conditions. Many residents have begun to suffer from depression and anxiety.⁸⁹ Some have started taking anti-depressants.⁹⁰ Several residents have seen significant increases in their blood pressure as a result of the constant stress they are under—enduring the current living situation—in addition to the dread that they will be hurt or forcibly evicted.⁹¹ Celina Adon Reyes was diagnosed with both depression and high blood pressure only after August 2009.⁹² Miriam Cruz suffers symptoms of tooth enamel and hair loss, which she attributes to constant stress because of her current living conditions.⁹³ One woman, Alida Paca de Jesús, who is disabled as a result of two strokes, suffers from depression. Since her water and electrical services were shut off, she is increasingly dependent on her family members to bathe her and care for her in other ways. Her inability to take care of herself has heightened her level of depression.⁹⁴ Francisca Figueroa Trinidad suffers from at least seven physical and mental illnesses, including bipolar disorder and hypothyroidism. Since experiencing the

⁸⁷ Gómez ¶ 4.

⁸⁸ Mota-Vásquez ¶ 14; Cintrón ¶ 7; Villas del Sol Video.

⁸⁹ Paca de Jesús ¶ 4; Escalera ¶ 3; de la Cruz ¶ 17; Brito ¶ 4; Mota-Vásquez ¶ 14; Chittum ¶ 8, Trinidad ¶ 7; Cintrón ¶ 4; Gómez ¶ 12; Gaya ¶ 12 ("My nerves have been affected. I worry every day. I get shaky thinking about sleeping on the street.").

⁹⁰ Reyes ¶ 5, Cintrón ¶ 4.

⁹¹ Escalera ¶ 4; Trinidad ¶ 2.

⁹² Reyes ¶ 5.

⁹³ Miriam ¶ 7.

⁹⁴ Paca de Jesús ¶¶ 3-4.

loss of water and electricity, her conditions have deteriorated to the point that she can no longer manage her numerous health conditions. She now suffers from severe suicidal tendencies and has even gone so far as to make a noose with which she attempted to hang herself.⁹⁵

III. PROCEDURAL HISTORY

Before bringing this case, members of the Villas del Sol Community made several efforts to urge the government of Puerto Rico to reestablish water services to the community. On August 7, 2009, the *Autoridad de Tierras de Puerto Rico*, the Puerto Rico Land Authority, filed an eviction complaint against the Villas del Sol community in the Superior Court of Puerto Rico. The Land Authority sought a judicial order forcing the eviction of the community, even though the government failed to provide the residents adequate housing alternatives.⁹⁶ During the hearing on August 18, 2009, the community's attorneys requested an order requiring the Aqueduct and Sewer Authority to reestablish the water services as provisional relief until final resolution of the eviction case. The Court dismissed this request and did not discuss the merits of the community's water service claim.⁹⁷ In November, the defendants once again requested the Court to order, as provisional relief in the eviction case, the reestablishment of water services. This time the community specifically relied on human rights principles to support their claim. The Superior Court again rejected the community's request for access to water.

On December 2, 2009, various members of the Villas del Sol Community, through the Inter-American School of Law Clinic and the Legal Services Corporation of

⁹⁵ Trinidad ¶ 7.

⁹⁶ *Deshuicio en Precario*, Estado Libre Asociado de Puerto Rico, Tribunal de Primera Instancia, Sala Bayamón, 7 de agosto 2009, at Exhibit D.

⁹⁷ Minutes of Eviction Hearing, D PE2009-0890, Estado Libre Asociado de Puerto Rico, Tribunal de Primera Instancia, Centro Judicial de Bayamón, Sala Superior, 28 de agosto 2009, at Exhibit D.

Puerto Rico, filed a Preliminary Injunction before the Superior Court of Puerto Rico.⁹⁸ The plaintiffs asserted claims based on the Constitution of Puerto Rico, the McKineley-Vento Act, Puerto Rico's Bill of Rights for the Homeless, and international human rights law.⁹⁹ In these proceedings, members specifically requested the reestablishment of running water and electrical services that had been interrupted since August, in light of the imminent risk to life and health this situation created for the community.¹⁰⁰ Days after the filing of the Preliminary Injunction Request, the Puerto Rico Aqueduct and Sewer Authority partially re-established water service to the community, for only one month, between December 15, 2009 and January 15, 2010. During the hearing for the Preliminary Injunction Request, the trial court dismissed the water claim, asserting that the water claim was moot, despite the fact that the government would once again cut off the water service in January.¹⁰¹ As to the electrical services claim, the Superior Court also dismissed it because, from the judge's point of view, the plaintiffs had not exhausted administrative remedies.¹⁰²

Aside from these Court proceedings, the community has appealed directly to the government for water services to be reinstated in Villas del Sol. In October 2009, the

⁹⁸ *Petición, Petición de Entredicho Provisional; Interdicto Preliminar y/o Permanente; Sentencia Declaratoria; y Daños y Perjuicios*, Estado Libre Asociado de Puerto Rico, Tribunal de Primera Instancia, Sala Superior de San Juan, 2 de diciembre 2009, at Exhibit D.

⁹⁹ *Id.*

¹⁰⁰ By the time the Injunction Request was filed, two cases of the H1N1 virus had been identified in the community.

¹⁰¹ *Sentencia Parcial, Petición de Entredicho Provisional; Interdicto Preliminar y/o Permanente; Sentencia Declaratoria; y Daños y Perjuicios*, Estado Libre Asociado de Puerto Rico, Tribunal de Primera Instancia, Sala Superior de San Juan, 14 de diciembre 2009, at Exhibit D.

¹⁰² *See Judge: Villas del Sol does not have right to electricity reconnection*, Puerto Rican Daily Sun, 18 Dec. 2009, available at <http://www.prdailysun.com/?page=news.article&id=1261107673> (explaining that the requirements the judge cited for exhausting administrative remedies is applicable only to permanent restoration of electrical services and not temporary restoration, which the residents were actually seeking and eligible for). *Sentencia Parcial, Petición de Entredicho Provisional; Interdicto Preliminar y/o Permanente; Sentencia Declaratoria; y Daños y Perjuicios*, Estado Libre Asociado de Puerto Rico, Tribunal de Primera Instancia, Sala Superior de San Juan, 16 de diciembre 2009, at Exhibit D.

American Civil Liberties Union ("ACLU") of Puerto Rico¹⁰³ directed a letter to Kenneth McClintock, then-acting Governor of Puerto Rico, denouncing the inhumane conditions that the community was facing because of the lack of running water.¹⁰⁴ The letter was never answered. In December, the ACLU also attempted to coordinate meetings with officials from the Governor's Office in order to reach an agreement and evaluate solutions to the water problem. These attempts rendered no results. Finally, in March 2010, the ACLU of Puerto Rico, the Legal Services Corporation of Puerto Rico, the Office of *Pro Bono* and the Legal Clinic of the University of Puerto Rico School of Law urged the Governor of Puerto Rico, Luis Fortuño, to provide access to running water. Again, this request went unanswered.¹⁰⁵

On April 21, 2010, the government presented a relocation plan for the residents of Villas del Sol.¹⁰⁶ However, the government refuses to reveal the location of the proposed relocation.¹⁰⁷ The only terms of the relocation that have been publicized include the requirement that the entire community be moved by May 14, 2010 and that bathrooms and kitchens have yet to be built.¹⁰⁸ The government claims that it will construct on the new land using the materials from the houses the residents are currently residing in.¹⁰⁹

¹⁰³ The ACLU of Puerto Rico has been providing legal assistance various members of the Villas del Sol Community.

¹⁰⁴ ACLU, Letter to Kenneth McClintock, 25 de noviembre 2009, at Exhibit D.

¹⁰⁵ ACLU, Letter to Luis Fortuño-Burset, 25 de marzo 2010, at Exhibit D.

¹⁰⁶ Wapa.tv, Anuncian plan desalojo Villas del Sol, 21 de abril 2010, *available at* <http://wapa.tv/noticias/locales/anuncian-plan-desalojo-villas-del-sol/20100421153612>.

¹⁰⁷ *Id.*

¹⁰⁸ *Id.*

¹⁰⁹ *Id.*

IV. THE IMMINENT HARM FACED BY THE RESIDENTS OF VILLAS DEL SOL CONSTITUTE VIOLATIONS OF THE AMERICAN DECLARATION

Villas del Sol residents have experienced past violations, continue to experience current violations, and fear future violations of the American Declaration, including violations of Article I, the right to life, liberty and personal security, Article VII, the right to protection for mothers and children, and Article XI, the preservation of life and health and well-being.¹¹⁰

Together, these violations underscore the risk of imminent harm to Villas del Sol residents that can only be addressed by Precautionary Measures. This Commission has the authority and competence to grant Precautionary Measures in situations such as those present here where there is an imminent threat to life or health.¹¹¹ Accordingly, Petitioners request this Commission to grant precautionary measures in order to prevent further harm to the residents of Villas del Sol, both in their current location and on any land where they may be relocated in the future.

¹¹⁰ The current situation in Villas del Sol also constitutes violations Articles V, VIII, IX, and XIII of the American Declaration. These violations do not constitute imminent harm to the residents of Villas del Sol in the same manner as do the violations of Articles I, XII, and XI and therefore do not support the issuance of precautionary measures.

¹¹¹ The Commission has repeatedly intervened in situations similar to that in Villas del Sol where individuals have been systemically deprived of access to emergency medical services or have experienced sanitation, water pollution and the absence of potable water. On January 29, 2010, the Commission urged the United States to take measures to ensure that individuals had access to the medical treatment required for End-Stage Renal Disease. PM 385-09, 31 Undocumented Immigrants Residing in Atlanta, Georgia, United States. In 2008, the Commission asked Cuba to adopt the measures necessary to guarantee the life and physical integrity of a prisoner at Guantanamo Bay, and to provide him with proper medical attention. PM 320/08, Yordis García Fournier. The Commission has requested Haiti take measures to provide adequate food, medical care, and sanitation to persons incarcerated in the Toussaint L'Ouverture Police Station. PM 144/07 Detainees at Toussaint L'Ouverture Police Station in Gonaïves. Additionally, on August 31, 2007, the Commission evaluated the request of persons suffering from a series of health problems stemming from high levels of air, soil, and water pollution in the community of La Oroya in Peru. The Commission requested Peru adopt appropriate measures to provide specialized and adequate treatment for those whose diagnosis shows that they are at risk of facing irreparable harm to their personal integrity or life. PM 46/07, Community of La Oroya. The Commission also urged Guatemala to take precautionary measures to address issues of overcrowding, the absence of drinking water, extensive spread of disease, and lack of proper medical care to inmates at the National Civilian Police precinct, all violations threatening the life and health of petitioners. PM 26/05, Detainees at the National Civilian Police Precinct in Solalá, Guatemala.

A. Article I—Right to life, liberty and personal security.

Article I of the American Declaration protects the right to "life, liberty and the security of . . . person."¹¹² This right includes "a person's legal and uninterrupted enjoyment of his life, his limbs, his body, his health, and his reputation."¹¹³ The Commission has interpreted Article I of the American Declaration to incorporate the prohibition against torture outlined in Article 5(2) of the American Convention,¹¹⁴ which states that "[n]o one shall be subjected to torture or to cruel, inhuman, or degrading punishment or treatment."¹¹⁵

Residents of Villas del Sol were subjected to torture and other forms of cruel, inhuman, or degrading treatment, when, on August 3, 2009, police officers stormed the community and tasered, pepper-sprayed, and beat numerous residents. The Commission has interpreted the prohibition against torture to cover more than physical violence. For example, in *Mortlock v. United States*, the Commission determined that the Petitioner, who suffered from HIV, would be subjected to torture and other cruel, inhuman, or degrading treatment if she were deported to Jamaica where she would not be able to

¹¹² American Declaration of the Rights and Duties of Man, Art. I.

¹¹³ Haitian Interdiction Case, United States of America, Case 10.675, IACHR Report No. 28/93, October 13, 1993.

¹¹⁴ Jose Victor Dos Santos and Waldemar Jeronimo Pinheiro, Paraguay, Case 11, IACHR Report No 87/99, September 27, 1999.

¹¹⁵ American Convention on Human Rights, Adopted at the Inter-American Specialized Conference on Human Rights, San Jose, Costa Rica 22, November 1969, art. 5(2). In interpreting provisions of the American Declaration, this Commission may look to other sources of international and regional human rights law, including the American Convention. Oscar Elias Biscet et al., Cuba, Case 12.476, IACHR Report No. 67/06, October 21, 2006. There may also be a violation of Article 26 of the American Convention similar to that found in *Kichijwa Peoples of the Sarayaku Community and its Members v. Ecuador*, in which the Commission found a violation of the Sarayaku community's right to progressive development under Article 26. In *Kichijwa*, Ecuador's government-supported oil exploration activities on the community's ancestral territory and blockade of the river the community used to enter and leave its territory to access health services and health-related goods created serious health risks for the entire community. Case 1802, Inter-Am. Comm. H.R., OEA/Ser.L/V/II.6 doc. 10 rev. 1 (1985). Such a violation does not pose imminent harm, however, and therefore is not pertinent to the analysis for whether precautionary measures can be issued.

access proper medical treatment.¹¹⁶ Similarly, here, the Puerto Rican police officers' actions denying Petitioners access to emergency medical services on three separate occasions amounted to cruel, inhuman, or degrading treatment similar to the *Mortlock* case.

The Commonwealth of Puerto Rico also continues to violate Article I of the American Declaration by denying residents' enjoyment of life, limbs, body, and health. By denying access to the basic services necessary to support a healthful life, the Commonwealth has drastically interfered with such enjoyment. This interference has caused, and continues to cause, imminent and irreparable harm to the lives and health of the residents of Villas del Sol.

B. Article VII—Right to protection for mothers and children.

Article VII provides that "[a]ll women, during pregnancy and the nursing period, and all children have the right to special protection, care and aid."¹¹⁷ The Commission has interpreted Article VII to afford additional measures of protection to children because of their status and particular vulnerability.¹¹⁸ Children are entitled to special protection to safeguard their development and States are compelled to "assure the prevailing superior interests of children."¹¹⁹ Furthermore, the Commission stated that when the basic needs of children are not met, such as insufficient food, clothing, housing and education, this "in turn renders them vulnerable to other abuses."¹²⁰

¹¹⁶ Andrea Mortlock, United States, Case 12.534, IACHR Report No. 19/08, March 13, 2008.

¹¹⁷ American Declaration of the Rights and Duties of Man, Art. VII.

¹¹⁸ Recommendations to Member States in Areas in which Steps Need to Be Taken Towards Full Observance of the Human Rights Set Forth in the American Declaration of the Rights and Duties of Man and the American Convention on Human Rights.

¹¹⁹ *Id.*

¹²⁰ IACHR-Annual Report 2008, Chapter IV-Human Rights Developments in the Region: Cuba.

Likewise, the Commission has recognized that all pregnant women are entitled to a special measure of protection by this Article.¹²¹ For example, in May 1977, this Commission found a violation of Article VII where Paraguayan officials imprisoned pregnant women and children and subjected two of the pregnant women to mistreatment. Another, lost her unborn child while she was tortured and was subsequently denied medical treatment.¹²²

In Villas del Sol, children and pregnant women have been denied the measures of protection afforded by the American Declaration. One woman who was eight months pregnant was beaten by police officers and her unborn baby temporarily stopped breathing after the incident. Another woman who was seven months pregnant suffered a medical emergency and was denied access to an ambulance. Several young children were pepper sprayed, and even beaten, by police officers during the August 3, 2009 incident. All of these examples constitute specific violations of Article VII. Additionally, the children and pregnant mothers presently living in Villas del Sol are being deprived of necessary care and aid, as they continue to be denied access to potable water and electricity on a regular basis. The consequent illnesses, diseases, and health conditions that they suffer as a result of the continued denial of water and electricity constitute violations of Article VII. This deprivation of services also contravenes Article VII because it has exacerbated the pre-existing health conditions of children and pregnant women. Families have also been unable to purchase sufficient foodstuffs and other resources to adequately provide for children and soon-to-be mothers, which renders them vulnerable to malnutrition and other potential health risks. These violations have caused,

¹²¹ May 1977, Case 2029

¹²² *Id.*

and continue to cause, imminent and irreparable harm to the well-being of pregnant women and children in Villas del Sol.

C. Article XI—Right to the preservation of health and well-being.

Article XI of the American Declaration provides that "[e]very person has the right to the 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."¹²³ The Commission has interpreted Article XI to require that states take appropriate measures to prevent harm to the health and well-being of individuals or groups or to reasonably respond to such harm when it results from governmental conduct. This requirement also exists where individuals are in the exclusive custody of the government.

In *Aché People v. Paraguay*, Paraguay's actions on indigenous peoples' land and denial of medical services and supplies, led to numerous deaths of indigenous people. The Commission found that Article XI required the state to take appropriate and necessary *preventive* and *responsive* measures to protect the indigenous people from the onset of an epidemic affecting life and health. The Commission noted that the health issues were foreseeable given the nature of the governmental conduct.¹²⁴

In *Juan Hernandez v. Guatemala*, the Commission found that Article XI required the state, as guarantor of the health and life of persons in its custody, to provide necessary services, including water, to Mr. Hernandez, who was in state custody at the time.¹²⁵

¹²³ American Declaration of the Rights and Duties of Man, Art. XI.

¹²⁴ Case 1802, Inter-Am. Comm. H.R., OEA/Ser.L/V/II.6 doc. 10 rev. 1 (1985).

¹²⁵ Case 11.297, Report No. 28/96, Inter-Am. Comm. H.R., OEA/Ser.L/V/II.95, doc. 7 rev. (1997).

The Commonwealth of Puerto Rico has similarly violated its obligations under Article XI of the American Declaration by *creating* conditions that have led to serious physical and mental health problems among the residents of Villas del Sol. The Puerto Rican government has not attempted to prevent or respond to the dangerous health conditions increasingly faced by Villas del Sol community members and has not demonstrated that these concerns will be addressed in the proposed land where the community is to be relocated. That these health issues are a reasonably foreseeable consequence of the deprivation of access to water and electrical services renders the government's actions even more troubling. As the provision of water and electrical services—basic necessities for a healthful life—are under the complete and total control of government authorities, the government's refusal to provide these services and the health consequences of this continued refusal constitutes a clear violation of Article XI. Again, these violations have caused, and continue to cause, imminent and irreparable harm to the health of the residents of Villas del Sol.

V. CONCLUSION

To prevent imminent and irreparable harm to Villas del Sol residents, Petitioners respectfully request that this Commission grant the following Precautionary Measures against the United States:

1. Immediately take measures to restore the provision of water and electricity services for all residents of the community of Villas del Sol.

2. Immediately take measures to prevent further police violence against the residents of the community of Villas del Sol.
3. Immediately take measures to end police interference in emergency medical situations faced by Villas del Sol residents.
4. Immediately take measures to halt the process of *forced* evictions of the residents of the community of Villas del Sol from the land on which they are currently living and from any land to which they might be relocated in the future.
5. Immediately take measures to ensure that the relocation process of community members will be peaceful—without threat to community members' lives or homes.
6. Immediately take measures to ensure that the relocation of community members will be to an area where they will have access to water and electrical services.
7. Immediately take measures to ensure that the relocation of community members will be to dwellings that are safe and inhabitable.
8. Immediately take measures to ensure that the relocation of community members will be to an area free of unreasonable police surveillance or interference.