

August 5, 2014

**Re: Case No. 12,788**  
**Members of the Village of Chichupac and Neighboring Communities of the Municipality of Rabinal**  
**Guatemala**

Mr. Secretary:

It is my pleasure to address you on behalf of the Inter-American Commission on Human rights for the purpose of submitting Case 12,788 – Members of the Village of Chichupac and Neighboring Communities of the Municipality of Rabinal with respect to the Republic of Guatemala (hereinafter “the State,” “the Guatemalan State,” or “Guatemala”), to the jurisdiction of the Honorable Inter-American Court of Human Rights.

This case involves a series of massacres, extrajudicial executions, tortures, forced disappearances, and rape against the members of the village of Chichupac and neighboring communities of the municipality of Rabinal, in the context of operations by the Army and collaborators during the internal armed conflict in Guatemala. On January 8, 1982, 32 persons were tortured and massacred. From 1981 to 1986, 39 persons were tortured and extrajudicially executed in the context of several operations. All these persons were civilians and were defenseless when they were detained, tortured, and executed. Moreover, eight persons were disappeared on August 24, 1981, January 8, 18, and 31, and February 12, 1982, and December 13, 1984. All these persons were last seen under the custody of state agents, and their whereabouts remain unknown to this day. In addition, on January 8, 1982, and November 22, 1982, two women were raped, and from October 1982 to June 1985 another woman was the victim of multiple rapes. This last person was also a victim of forced labor in the “Chichupac model village” under orders of members of the National Army. The Commission also found that the survivors of the village of Chichupac and neighboring communities were victims of forced displacement. Related to this series of violations, the Commission also found, in the case, violations were committed of the right to honor and dignity, the freedom of conscience and religion, the freedom of association, the right to property, and political rights.

The facts of the instant case are part of a state strategy aimed at destroying an ethnic group through military operations that resulted in the massacre of thousands of members of the Maya indigenous people, the flight of the survivors, the destruction of their subsistence economies, and, finally, the intentional subjection of thousands of Maya indigenous persons to conditions of existence that meant they were dependent on the military structure. In summary, the Commission considered that the facts of the case constituted part of the genocide against the Maya indigenous people in Guatemala. More than three decades after the events, and more than two decades after the first report was received, the facts remain in the most absolute impunity.

Mr. Pablo Saavedra Alessandri, Secretary  
Inter-American Court of Human Rights  
Apartado 6906-1000  
San José, Costa Rica

Attachments

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The State ratified the American Convention on Human Rights on May 25, 1978, and accepted the Court's competition jurisdiction on May 9, 1987.

The Commission has designated Commissioner James Cavallaro and the Executive Secretary, Emilio Álvarez Icaza L., as its delegates. In addition, Elizabeth Abi-Mershed, Assistant Executive Secretary, as well as Silvia Serrano Guzmán, and Erick Acuña Pereda, both attorneys with the Executive Secretariat of the IACHR, will serve as legal advisers.

As per Article 35 of the Inter-American Court's Rules of Procedure, the Commission attaches a copy of Report 6/14, prepared pursuant to Article 50 of the Convention, as well as a copy of the entire record before the Inter-American Commission (Appendix I) and the attachments used in the preparation of Report 6/14 (Attachments).

On ruling on the merits, the Inter-American Commission reached the conclusion that the State of Guatemala is internationally responsible for the violation of the rights established at Articles 3, 4, 5, 6, 7, 8, 11, 12, 16, 17, 19, 21, 22, 23, 24, and 25 of the American Convention in relation to the obligations established at Article 1(1) of the same international instrument; Article I of the Inter-American Convention on Forced Disappearance of Persons; and Article 7 of the Convention of Belém do Pará.

The State of Guatemala was given notice of that report on the merits by communication of May 5, 2014; it was given two months to report on compliance with the recommendations.

The State of Guatemala filed a report by which it referred to the recommendations made by the Commission. The State indicated in general terms the existence of the National Reparation Program and noted that the National Forensic Science Institute is operating, without specifying the concrete mechanisms implemented to make reparation to the victims, survivors, and next-of-kin in the instant case, and without securing the identification of the mortal remains. In addition, as regards the investigations, the State indicated that they would continue and invoked the Law on National Reconciliation, specifying that the State cannot repudiate the domestic legal framework. The State did not request an extension to comply with the recommendations.

Accordingly, the Commission decided to submit the instant case to the jurisdiction of the Inter-American Court in view of the need to obtain justice for the victims, survivors, and next-of-kin given the failure to carry out the recommendations.

The Inter-American Commission submits to the jurisdiction of the Court the acts and omissions that occurred or that continued after March 9, 1987, the date of acceptance of the Inter-American Court's contentious jurisdiction by the State of Guatemala. Accordingly, the Commission notes that the forced disappearances continued and continue taking place after that date, along with the omissions in the identification of the victims' mortal remains, forced displacement, and other related violations, as well as the failure to conduct a diligent and effective investigation or to make integral reparation to the victims, next-of-kin, and survivors for all the facts of the case. This submission by the Commission is without prejudice to whether the State of Guatemala accepts the jurisdiction of the Court to hear the totality of the instant case, in keeping with what is stipulated at Article 62(2) of the American Convention.

The Commission also asks the Court to establish the following measures of reparation:

1. Make adequate reparation, individually and collectively, for the violations of human rights found in the report, covering the material, moral, and cultural aspects, including fair compensation, the determination and dissemination of the historical truth of the facts, recovering the memory of the deceased and disappeared victims, and implementing a program for psychosocial care that is culturally appropriate for the survivors and family members of the victims executed and disappeared. Collective reparations should be reached by consensus with the survivors in the village of Chichupac and neighboring communities with the aim of re-establishing their community life as part of the Maya Achi indigenous community, and the special bond with their lands.
2. Establish a mechanism that makes it possible, to the greatest extent possible, to completely identify the victims executed in the instant case and to provide as necessary to continue the process of identifying the mortal remains of those victims and returning them to their families.
3. Establish a mechanism that makes it possible to determine the persons disappeared in the massacres, and with respect to the survivors of the massacres.
4. Locate and deliver to the family the mortal remains of the disappeared victims.
5. Establish a mechanism to facilitate complete identification of the family members of the victims executed and disappeared so that they can be beneficiaries of reparations.
6. Carry out, conclude, and reopen, and as the case may be, the domestic procedures related to the violations of human rights found in the report and conduct the investigations impartially, effectively, and within a reasonable time for the purpose of clarifying the facts completely, identifying the masterminds and direct perpetrators, and impose the corresponding sanctions.
7. Strengthen the capacity of the judicial branch to adequately and efficiently investigate the facts and punish the persons responsible, even providing the material and technical resources needed to ensure the proper development of the procedures.
8. Order the corresponding administrative, disciplinary, and criminal justice measures vis-à-vis the acts or omissions of the state officials that have contributed to the denial of justice and impunity in which one finds the facts of the case, or of those who participated in measures to obstruct the proceedings aimed at identifying and punishing the persons responsible.
9. Adopt the measures necessary to ensure that there is no recurrence of similar acts in the future, in keeping with the duty to prevent and to ensure the human rights recognized in the American Convention. In particular, implement permanent programs on human rights and international humanitarian law in the training schools of the Armed Forces.

In addition to the need to obtain justice for the failure to carry out the recommendations in the report on the merits, the Commission considers that the case raises issues that go to inter-American public order. Specifically, although the Court has already heard several cases of massacres committed during the armed conflict in Guatemala, this case could contribute to developing case-law on the mechanisms of reparation domestically and their reach in the

context of proceedings that have already been submitted to and/or decided by the organs of the inter-American system. Accordingly, given the invocation that the State has been making the case would allow for a pronouncement by the Court on the Law on National Reconciliation, its non-applicability to facts such as those in the instant case, and the way in which an interpretation of that provision incompatible with inter-American case-law would make it possible to consolidate the situation of structural impunity one finds in Guatemala with respect to grave violations of human rights during the armed conflict.

As these issues significantly affect inter-American public order, as per Article 35(1)(f) of the Inter-American Court's Rules of Procedure, the Commission takes this opportunity to offer the following expert witness statements:

**Expert/whose name will be provided soon**, who will testify on the scope and elements of integral reparation in a case such as the instant one, in which the human rights violations were especially grave and widespread, to the point of tearing apart the social and cultural cohesion of an entire community. The expert will analyze those parameters, the reparations offered by domestic systems, and their scope in cases already before the inter-American system. In addition, special emphasis will be placed on Guatemala's situation.

**Expert/whose name will be provided soon**, who will testify on the structural situation of impunity in Guatemala for human rights violations committed during the internal armed conflict. The expert will analyze the factors that have contributed to that situation in the past, as well as the emerging context with the invoking the Law on National Reconciliation. On this aspect, the expert will refer to international standards on amnesty laws, especially after an internal armed conflict, with special emphasis on the Law on National Reconciliation in the context of grave violations of human rights, crimes against humanity, genocide, and war crimes, such as those that occurred in this case.

The *curriculum vitae* of the experts offered will be included in the attachments to Report on the Merits 6/14. The Commission informs the Court of the following information on those who have served as petitioners throughout the processing of this case:

Wuifredo Ivoy Morales  
María Dolores Iztep Manuel

Sincerely yours,

*Signed in the original*

Elizabeth Abi-Mershed  
Assistant Executive Secretary