

Blake v. Guatemala

ABSTRACT¹

On March 28, 1985, Mr. Nicholas Chapman Blake, a U.S. citizen and journalist, was abducted and murdered by agents of the Guatemalan State. His disappearance lasted over seven years until June 14, 1992, when his remains were found. Although the events took place before Guatemala accepted the Court's jurisdiction, the lack of investigation and continuing disappearance of the victims continued after Guatemala's acceptance of jurisdiction. The Court found that the State violated the American Convention on Human Rights.

I. FACTS

A. Chronology of Events

March 26, 1985: Two U.S. citizens living in Guatemala, Mr. Nicholas Chapman Blake, a journalist, and Mr. Griffith Davis, a photographer, travel through Guatemala together to interview guerrillas and write a series of articles about the internal conflict ongoing in Guatemala.²

March 28 or 29, 1985: Mr. Blake and Mr. Davis arrive at the small village of El Llano, Quiche, where the Commander of the El Llano Civil Self-Defense Patrol, Mario Cano, questions them regarding the purpose of their trip.³ The two men are taken to an area called Los Campamentos where they are shot and killed; their bodies are thrown under tree trunks and later burned.⁴ There is information that they were killed by the El Llano civil patrol.⁵

1. Maya Rozov, Author; Elise Cossart-Daly, Heather Hassan, Grace Kim, and Sascha Meisel, Editors; Sarah Frost, Chief Articles Editor; Cesare Romano, Faculty Advisor.

2. Blake v. Guatemala, Merits, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 36, ¶ 31, 52(a) (Jan. 24, 1998).

3. Blake v. Guatemala, Preliminary Objections, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 27, ¶ 12 (July 2, 1996).

4. Blake v. Guatemala, Merits, ¶¶ 31, 52(a); Blake v. Guatemala, Preliminary Objections, ¶ 12.

5. Blake v. Guatemala, Merits, ¶ 31.

April 12, 1985: The United States Embassy in Guatemala informs Mr. Blake's family that he has disappeared.⁶ Mr. Davis's wife, Ms. Metchtild Lindken, seeks help from the Embassy to locate her husband and Mr. Blake.⁷

1985 - 1992: Mr. Blake's family travels to Guatemala over twenty times to investigate Mr. Blake's abduction and death.⁸ They hire a private investigator, Mr. Justo Victoriano Martínez-Morales. The family meets with both United States Embassy personnel and Guatemalan civilian and military authorities.⁹ Throughout this period, the State conceals the whereabouts of Mr. Blake's body and makes the investigation more difficult.¹⁰ Members of the Civil Patrols intentionally provide the Blake family with contradicting information, further hindering the investigation.¹¹

August 1987: Felipe Alva, Army Commandant and Chief of the Civil Patrols, issues instructions to burn the bodies of Mr. Blake and Mr. Davis.¹²

September 1987: Justo Victoriano Martínez-Morales, the investigator in charge of the private investigation into the two men's deaths, discovers the place where State agents hid Mr. Blake and Mr. Davis's bodies.¹³ He also discovers that Mr. Davis and Mr. Blake's murderers excavated and cremated their remains.¹⁴

January 1992: Mr. Alva tells members of the Blake family that he can recover Mr. Blake's remains in exchange for a fee.¹⁵

March 16, 1992: Mr. Alva sends the Blake family two boxes, each containing soil samples and bone and teeth fragments, in exchange for

6. *Id.*
7. *Id.* ¶ 52(c).
8. *Id.* ¶ 52(d).
9. *Id.* ¶¶ 52(d), 52(o).
10. *Id.* ¶ 52(o).
11. *Id.*
12. *Id.* ¶ 52(e).
13. *Id.* ¶ 52(f).
14. *Id.*
15. *Id.* ¶ 52(h).

money.¹⁶

May 19, 1992: Mr. Alva signs an agreement with members of the Blake family in which they promise to pay \$10,000 after the remains are identified as those of Mr. Blake and Mr. Davis.¹⁷ Mr. Alva also informs the family that they cannot take action to prosecute the El Llano Civil Patrol despite the fact that they killed Mr. Blake and Mr. Davis.¹⁸

June 11 and 12, 1992: Mr. Alva takes members of the Blake family, forensic experts, diplomatic observers, and an officer of the Guatemalan army to a number of places around El Llano where Mr. Alva claims the two men's remains are located.¹⁹ Their remains are not found.²⁰

June 14, 1992: Mr. Blake's remains are found.²¹

July 18, 1992: Forensic experts from the Smithsonian Institute in Washington, D.C. issue a report stating the boxes sent by Mr. Alva "contained the partial remains of two persons" but only Mr. Davis's remains were identified.²²

August 21, 1992: The Registrar General of the Village of Chiantla in the Department of Huehuetenango issues Mr. Blake's death certificate, establishing his date of death as March 29, 1985.²³

January 24, 1998: The State has yet to complete an investigation of the facts surrounding Mr. Blake and Mr. Davis's deaths or to punish those responsible.²⁴

B. Other Relevant Facts

In 1982, Guatemala imposed a civil patrol system that used civilians

16. *Id.*

17. *Id.* ¶ 52(i).

18. *Id.*

19. *Id.* ¶ 52(k).

20. *Id.*

21. *Id.* ¶ 52(b).

22. *Id.* ¶ 52(i).

23. *Id.* ¶ 52(m). The Merits Judgment does not mention Mr. Davis' death certificate. *See generally*, Blake v. Guatemala, Merits.

24. Blake v. Guatemala, Merits, ¶ 52(n).

to patrol and attack other civilians.²⁵ The civil patrols received funding, weapons, training and direct orders from the State army.²⁶ The objective was to combat the growing guerrilla expansion in Guatemala by creating pro-government citizen militias.²⁷ Originally, these militias were created for self-defense against the guerrillas, but they were also used as an offensive force.²⁸ Some of the militias began working in collaboration with army personnel in committing killings and disappearances of people in communities who were not under army control.²⁹

II. PROCEDURAL HISTORY

A. *Before the Commission*

November 18, 1993: International Human Rights Law Group files a petition against Guatemala with the Inter-American Commission on Human Rights.³⁰

February 15, 1995: After a failed attempt at a friendly settlement between the parties, the Commission approves Merits Report No. 5/95, in which the Commission recommends that the State take responsibility for the disappearance and cover up of the murder of Mr. Blake.³¹ The Commission also recommends that the state prosecute and punish those responsible for the murder.³²

B. *Before the Court*

August 3, 1995: The Commission submits the case of Mr. Blake to the

25. PATRICK DONNELL BALL, ET AL., STATE VIOLENCE IN GUATEMALA, 1960-1996: A QUANTITATIVE REFLECTION, CH. 19 (1999).

26. Blake v. Guatemala, Merits, ¶ 52(p).

27. PATRICK DONNELL BALL, ET AL.

28. *Id.*

29. *Id.*

30. Blake v. Guatemala, Merits, ¶ 4. From the Merits, it appears that the petition was filed on behalf of Mr. Blake, but not on behalf of Mr. Davis because the Commission declared, at the public hearing on April 17, 1997, that Mr. Davis' relatives did not show any interest in bringing an action before the Commission. *Id.* ¶ 85.

31. *Id.* ¶ 8.

32. *Id.* The Merits do not indicate which articles of the American Convention the Commission found the State violated and at the time of publication, Merits Report No. 5/95 was unavailable. *See generally*, Blake v. Guatemala, Merits.

Court after the State failed to adopt its recommendations.³³

1. Violations Alleged by Commission³⁴

Article 4 (Right to Life)

Article 5 (Right to Humane Treatment)

Article 7 (Right to Personal Liberty)

Article 8 (Right to a Fair Trial)

Article 13 (Freedom of Thought and Expression)

Article 22 (Freedom of Movement and Residence)

Article 25 (Right to Judicial Protection)

all in relation to:

Article 1(1) of the American Convention.

2. Violations Alleged by Representatives of the Victims³⁵

Same Violations Alleged by the Commission.

August 11, 1995: The Commission requested provisional measures in regards to “a case of extreme urgency” affecting Mr. Martínez Morales, the private investigator and a witness in the case, as well as for Mr. Martínez Morales’s wife, Floridalma Rosalina López-Molina, two sons, Victor Hansel Morales López and Edgar Ibal Martínez López, and daughter, Sylvia Patricia Martínez López.³⁶ Mr. Martínez Morales provided the U.S. Embassy and Mr. Blake’s family with information that indentified the persons involved in committing the murders.³⁷ According to the Commission, Mr. Martínez Morales received death threats from the civil patrols of El Llano and the surrounding areas.³⁸

August 16, 1995: The President of the Court orders Guatemala to adopt the necessary measures to protect Mr. Martínez Morales.³⁹ The President also requests that the State provide the Court with a report

33. Blake v. Guatemala, Merits, ¶ 1.

34. *Id.* ¶ 79.

35. *Id.*; Janelle M. Diller, Margarita Gutiérrez, Joanne E. Hoepfer, Felipe González, Diego Rodríguez, Arturo González, and A. James Vázquez Azpiri served as representatives of the victims.

36. *Id.*

37. Blake v. Guatemala, Provisional Measures, Order of the President of the Court, Inter-Am. Ct. H.R. (ser. E) “Whereas” ¶ 3 (Aug. 16, 1995).

38. *Id.*

39. *Id.* “Decides” ¶ 1.

containing the measures it adopts to comply with the order.⁴⁰

September 22, 1995: The Court adopts provisional measures because of existing harm to the witness.⁴¹ The Court also requires that the State inform the Court of the provisional measures that it has taken every three months.⁴² The State appoints Alfonso Novales-Aguirre as Judge *ad hoc*.⁴³

July 2, 1996: The Court issues its Judgment on Preliminary Objections.⁴⁴ The State files three preliminary objections.⁴⁵ First, the State argues that the Court is not competent to hear the case because Guatemala accepted the jurisdiction of the Court on March 9, 1987, after the events of the case occurred.⁴⁶ Second, the State argues that there were no violations of human rights recognized by the American Convention and that the Court lacks competence over the subject matter because the Civil Defense Patrols cannot be presumed to be agents of the State.⁴⁷ Finally, the State argues that there was an invalid interpretation of the human rights recognized.⁴⁸

The Court rules unanimously that there is some merit to the first preliminary objection, and dismisses the second and third objections on the grounds that they are inadmissible.⁴⁹ The Court holds that the murder was completed before the State accepted jurisdiction of the Court on March 9, 1987.⁵⁰ However, Mr. Blake's whereabouts were not discovered until 1992, after the State accepted the jurisdiction of the Court.⁵¹ Therefore, the Court holds it is competent to continue to hear the case regarding the effects and acts that occurred after the State accepted jurisdiction.⁵² The Court rules that the second objection does not meet the legal requirements of a preliminary objection: it does not

40. *Id.* "Decides" ¶ 3.

41. Blake v. Guatemala, Provisional Measures, Order of the Court, Inter-Am. Ct. H.R. (ser. E) "Decides" ¶ 1 (Sept. 22, 1995).

42. *Id.* "Decides" ¶ 2.

43. Blake v. Guatemala, Merits, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 36, ¶ 14 (Jan. 24, 1998).

44. *Id.* ¶ 53.

45. Blake v. Guatemala, Preliminary Objections, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 27, ¶ 23 (July 2, 1996).

46. *Id.*

47. *Id.* ¶¶ 25, 41.

48. *Id.* ¶ 27.

49. *Id.* ¶ 33.

50. *Id.*

51. *Id.* ¶ 40.

52. *Id.*

address whether the Court can hear the merits of the case.⁵³ Therefore, the Court dismisses the preliminary objection on inadmissibility grounds.⁵⁴ The Court also holds that the third objection is inadmissible because the State's arguments are unclear, and the objection relates more closely to the Court's consideration of the merits of the case.⁵⁵

April 16, 1997: The State submits a brief stating that it accepts international responsibility for the unwarranted delay in the application of justice.⁵⁶

April 18, 1997: The Court calls on the State to expand the provisional measures that were adopted to protect a number of important witnesses to the case.⁵⁷ The State adopted effective measures to protect their homes, and now the Court states the witnesses should be protected while they are outside of their homes as well.⁵⁸

III. MERITS

A. Composition of the Court

Hernán Salgado Pesantes, President
Antônio Augusto Cançado Trindade, Vice President
Héctor Fix-Zamudio, Judge
Alejandro Montiel Argüello, Judge
Máximo Pacheco Gómez, Judge
Oliver Jackman, Judge
Alirio Abreu Burelli, Judge
Alfonso Novales Aguirre, Judge *ad hoc*

Manuel E. Ventura-Robles, Secretary
Víctor M. Rodríguez-Rescia, Interim Deputy Secretary,

B. Decision on the Merits

53. *Id.* ¶ 43.

54. *Id.*

55. *Id.* ¶ 45.

56. Blake v. Guatemala, Merits, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 36, ¶ 27 (Jan. 24, 1998).

57. Blake v. Guatemala, Provisional Measures, Order of the Court, Inter-Am. Ct. H.R. (ser. E) "Decides" ¶ 2 (Apr. 18, 1997).

58. *Id.*

January 24, 1998: The Court issues its judgment on the Merits.⁵⁹

The Court found by seven votes to one that Guatemala had violated:⁶⁰

Article 8(1) (Right to a Hearing Within a Reasonable Time by a Competent and Independent Tribunal), in relation to Article 1(1) of the American Convention, to the detriment of Mr. Blake's relatives,⁶¹ because:

The Court stated that Article 8(1) of the Convention requires a broad interpretation that is based on "the letter and the spirit of this provision," and that Article 8 (Right to a Fair Trial) must be interpreted with Article 29(c) (Interpretation Cannot Preclude Inherent Rights or Rights Derived from Democratic Governance) of the Convention.⁶² The Court also stated that Article 8(1) (Right to a Hearing Within a Reasonable Time by a Competent and Independent Tribunal) includes the rights of the victims' family to judicial guarantees.⁶³ Mr. Blake's relatives, therefore, have the right to have Mr. Blake's disappearance and death effectively investigated and to have those responsible for the atrocities to be properly prosecuted, the relevant punishment applied to the perpetrators, and to be compensated for the injures and damages sustained.⁶⁴ Since Guatemala had not successfully and efficiently conducted the appropriate proceedings, the Court found that Guatemala was in violation of Article 8(1) (Right to a Hearing Within a Reasonable Time by a Competent and Independent Tribunal).⁶⁵

The Court found unanimously that Guatemala had violated:

Article 5 (Right to Humane Treatment), in relation to Article 1(1) of the American Convention, to the detriment of Mr. Blake's relatives,⁶⁶ because:

Article 5 (Right to Humane Treatment) guarantees that every person

59. Blake v. Guatemala, Merits, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 36, (Jan. 24, 1998).

60. *Id.* ¶ 124.

61. *Id.* ¶ 97.

62. *Id.* ¶ 96.

63. *Id.*

64. *Id.* ¶ 97.

65. *Id.*

66. *Id.* ¶ 124(2).

should have his mental, physical and moral integrity respected.⁶⁷ The violation of Mr. Blake's relative's moral and mental integrity flows directly from Mr. Blake's forced disappearance.⁶⁸ When such disappearances occur, family members' suffering is enhanced when public authorities fail to investigate the disappearance.⁶⁹ Mr. Blake's family members' suffering was further increased by the burning of his remains, which is considered to be "an assault on the cultural values prevailing in Guatemalan society" that are handed down throughout generations regarding respect for the dead.⁷⁰ Additionally, when Mr. Blake's remains were burned, the only evidence of his whereabouts was destroyed.⁷¹ Specifically, Mr. Blake's brother suffered immensely and spent a great deal of time and money on psychiatric help and medication to deal with his brother's disappearance.⁷² The family, as a whole, felt anguish and frustration at the ineffectiveness of the State's investigations regarding the disappearance.⁷³ Therefore, the Court held that the suffering of Mr. Blake's relatives was a direct consequence of Mr. Blake's disappearance, and that there was a violation of Article 5 (Right to Humane Treatment).⁷⁴

The Court did not rule on:

Article 7 (Right to Personal Liberty) and Article 4 (Right to Life), in relation to Article 1(1) of the American Convention,⁷⁵ because:

With respect to Article 7 (Right to Personal Liberty), the Court stated that it could only rule on the events that occurred after the date the State recognized its jurisdiction.⁷⁶ Mr. Blake's detention and subsequent forced disappearance occurred on March 28 or 29, 1985, a date before the State accepted the jurisdiction of the Court.⁷⁷ Therefore, the Court held that it was not competent to decide on Mr. Blake's detention pursuant to Article 7 (Right to Personal Liberty).⁷⁸

67. *Id.* ¶ 109.

68. *Id.* ¶ 114.

69. *Id.*

70. *Id.* ¶ 115.

71. *Id.*

72. *Id.* ¶¶ 113, 116.

73. *Id.* ¶ 113.

74. *Id.* ¶ 124(2).

75. *Id.* ¶¶ 79, 83.

76. *Id.* ¶ 82.

77. *Id.*

78. *Id.*

Similarly, since Mr. Blake was murdered prior to the State accepting the Court's jurisdiction, the Court held that it could not rule on his death pursuant to Article 4 (Right to Life), but only on the effects and acts that occurred after the State accepted the Court's jurisdiction.⁷⁹

Furthermore, the Court acknowledged it was surprised that the Commission did not include Mr. Davis in the application to the Court since he was also a victim.⁸⁰ Even though the Commission may submit an application on behalf of a victim without relatives, it did not do so here and, therefore, the Court could not make any rulings on the events having to do with Mr. Davis.⁸¹

Article 25 (Right to Judicial Protection), in relation to Article 1(1), of the American Convention,⁸² because:

The Court could not rule on a violation of Article 25 (Right to Judicial Protection) because Mr. Blake's relatives did not meet the requirements necessary for the application of Article 25.⁸³ Article 25 (Right to Judicial Protection) guarantees individuals the right to a trial in front of a competent court when their rights enshrined by the Convention have been violated.⁸⁴ According to the Court, this Article is "one of the fundamental pillars . . . of the Convention . . . [and] of the very rule of law in a democratic society."⁸⁵ The Commission argued that the State's domestic courts were inoperative and ineffective so that Mr. Blake's relatives were denied their right pursuant to Article 25 (Right to Judicial Protection).⁸⁶ The Court pointed out, however, that Mr. Blake's relatives did not initiate any judicial action to establish his disappearance and secure his freedom.⁸⁷ Therefore, the Court held that it could not rule that his relatives were deprived of their judicial protection under Article 25 (Right to Judicial Protection).⁸⁸

Article 13 (Freedom of Thought and Expression) and Article 22

79. *Id.* ¶ 86.

80. *Id.* ¶ 85.

81. *Id.*

82. *Id.* ¶ 104.

83. *Id.*

84. *Id.* ¶ 101.

85. *Id.* ¶ 102.

86. *Id.* ¶ 98.

87. *Id.* ¶ 104.

88. *Id.*

(Freedom of Movement and Residence), in relation to Article 1(1) of the American Convention,⁸⁹ because:

These violations refer to freedom of thought and movement of Mr. Blake.⁹⁰ The Court held that even if these violations were to be found, they were an indirect consequence of Mr. Blake's disappearance and death and, therefore, the violations were unfounded.⁹¹

C. Dissenting and Concurring Opinions

1. Dissenting Opinion of Judge Montiel Argüello

First, Judge Argüello held that there was no violation of Article 8 (Right to a Fair Trial) because Mr. Blake's relatives chose to conduct private inquiries rather than utilizing State investigators and courts.⁹² Further, Judge Argüello argued that the State clearly did not comply with its duty to supply the victim's family with information regarding his disappearance, nor did the State conduct a proper investigation.⁹³ The Judge stated, however, that this more closely resembles a consequence of a violation, rather than an actual violation of Article 8 (Right to a Fair Trial).⁹⁴

2. Separate Opinion of Judge Cançado Trindade

Judge Cançado Trindade discussed the *ratione temporis* limitation in relation to the law.⁹⁵ He expressed his concern with the Court's decision not to rule on certain violations because the State had not yet accepted the Court's jurisdiction at the time the violations occurred.⁹⁶ Instead of dealing with the grave human rights violations, the Court limited itself to ruling on the least complex issues of the crime, such as the judicial guarantees and the moral integrity of those affected by the

89. *Id.* ¶ 105.

90. *Id.* ¶ 104.

91. *Id.* ¶ 105.

92. Blake v. Guatemala, Merits, Dissenting Opinion of Judge Montiel Argüello, Inter-Am. Ct. H.R. (ser. C) No. 36, ¶ 3 (Jan. 24, 1998).

93. *Id.* ¶¶ 6-8.

94. *Id.* ¶ 11.

95. Blake v. Guatemala, Merits, Separate Opinion of Judge Cançado Trindade, Inter-Am. Ct. H.R. (ser. C) No. 36, ¶ 3 (Jan. 24, 1998).

96. *Id.* ¶ 9.

forced disappearance.⁹⁷ Judge Cançado Trindade pointed out the complexity and gravity of a forced disappearance violation and that this violation continues and is permanent.⁹⁸ Judge Cançado Trindade emphasized the continuing nature of the crime of a forced disappearance and that the legal system should progress to deal with it more adequately.⁹⁹ He believes that the way the present legal system deals with forced disappearances ultimately leads to negative repercussions and affects reparations in a way that does not properly deal with human rights violations.¹⁰⁰

3. Concurring Opinion of Judge Novales Aguirre

Judge Novales Aguirre discussed how human rights protection have progressed and developed in the State since these violations occurred.¹⁰¹ He argued that the State should have been urged to conduct an exhaustive investigation regarding the violations against both Mr. Blake as well as Mr. Davis.¹⁰² Judge Novales Aguirre found that the violations occurred to both men and the fact that Mr. Davis' family did not bring a case forward does not mean that he does not also deserve an effective investigation into his disappearance.¹⁰³

IV. REPARATIONS

January 22, 1999: The Court issues its judgment on Reparations and Costs.¹⁰⁴

The Court ruled unanimously that the State had the following obligations:

A. Specific Performance (Measures of Satisfaction and Non-Repetition Guarantee)

97. *Id.* ¶ 14.

98. *Id.* ¶ 9.

99. *Id.* ¶ 16.

100. *Id.* ¶ 18.

101. Blake v. Guatemala, Merits, Concurring Opinion of Judge Novales Aguirre, Inter-Am. Ct. H.R. (ser. C) No. 36, ¶ 40 (Jan. 24, 1998).

102. *Id.*

103. *Id.*

104. Blake v. Guatemala, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 57 (Jan. 22, 1999).

1. Duty to Take Domestic Measures

The Court ordered the State to effectively investigate, prosecute, try and convict those that committed these human rights violations and take measures to prevent future violations.¹⁰⁵

B. Compensation

The Court awarded the following amounts:

1. Pecuniary Damages

[None]

2. Non-Pecuniary Damages

The Court awarded \$15,000 to Mr. Blake's brother, Samuel Blake, for medical treatment resulting from ailments caused by the disappearance of his brother.¹⁰⁶ The Court also awarded \$30,000 to each of Mr. Blake's two brothers, Richard Jr. and Samuel, to his father, Richard, and his mother, Mary, for the immense amount of suffering, anguish, and frustration they experienced due to the forced disappearance of Mr. Blake.¹⁰⁷ The Court also awarded \$16,000 to reimburse Mr. Blake's family for the cost of privately investigating Mr. Blake's disappearance.¹⁰⁸

3. Costs and Expenses

The Court granted \$10,000 to the injured party the costs incurred in presenting the case to the Inter-American Commission and Court.¹⁰⁹

4. Total Compensation (including Costs and Expenses ordered):

\$161,000

C. Deadlines

105. *Id.* ¶ 64.

106. *Id.* ¶ 50.

107. *Id.* ¶ 57.

108. *Id.* ¶ 49, "Decides" ¶ 2.

109. *Id.* ¶ 70.

The Court ordered the State to pay Mr. Blake's family within six months from the date of notification.¹¹⁰

D. Dissenting and Concurring Opinions

1. Separation Opinion of Judge Cançado Trindade

Judge Cançado Trindade voted in favor of the reparations of the majority of the Court, however, he again emphasized his concerns with the outcome of the case.¹¹¹ Judge Cançado Trindade argued that the Court did not focus enough on the gravity of the facts of the case.¹¹² He again argued that the Court should make decisions that will transform the existing law into one that enforces justice in the face of circumstances like forced disappearances.¹¹³

2. Concurring Opinion of Judge Novales Aguirre

Judge Novales Aguirre concurred with the reparations set out by the Court.¹¹⁴ Judge Novales Aguirre did not, however, think that the Court rewarded sufficient reparations to Mr. Blake's family, as it is the duty of the State to continue the investigation ordered by the Court until a conclusion is reached.¹¹⁵

V. INTERPRETATION AND REVISION OF JUDGMENT

April 21, 1999: The State presented a request for interpretation on the judgment on reparations.¹¹⁶ The State argued that there is a distinct difference between the Judgment on Reparations and the Judgment on the Merits.¹¹⁷ The Judgment on the Merits requires the State to reimburse for expenses incurred in relation to the State's authorities

110. *Id.* ¶ 71.

111. Blake v. Guatemala, Reparations and Costs, Separate Opinion of Judge Cançado Trindade, ¶ 1 (Jan. 29, 1999).

112. *Id.*

113. *Id.*

114. Blake v. Guatemala, Reparations and Costs, Concurring Opinion of Judge Novales Aguirre, (Jan. 22, 1999).

115. *Id.* ¶ 3.

116. Blake v. Guatemala, Interpretation of Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 57, ¶ 2 (Oct. 1, 1999).

117. *Id.* ¶ 5.

while the Judgment on Reparations requires the State to pay for extrajudicial expenses incurred in processing the case.¹¹⁸

A. Composition of the Court

Antônio Augusto Cançado Trindade, President
Máximo Pacheco Gómez, Vice-President
Hernán Salgado Pesantes, Judge
Oliver Jackman, Judge
Alirio Abreu Burelli, Judge
Sergio García Ramírez, Judge
Carlos Vicente de Roux-Rengifo, Judge
Alfonso Novales Aguirre, Judge *ad hoc*

Manuel E. Ventura-Robles, Secretary
Renzo Pomi, Deputy Secretary

B. Merits

October 1, 1999: The State declared that the Judgment on the Merits is a distinct judgment from the Judgment on Reparations.¹¹⁹ The State claimed that the Judgment on the Merits established that the State must compensate for expenses incurred through representations to the Guatemalan authorities while the compensation for reparations covered expenses of an extrajudicial nature while going through the Inter-American human rights system.¹²⁰ The Court unanimously held that these differences do not exist, and that compensation for one decisions does not exclude compensation for the other.¹²¹

VI. COMPLIANCE AND FOLLOW-UP

August 18, 2000: The Court requested that the State continue to take the necessary measures to protect the lives of the witnesses, as previously established by the President of the Court in the order of September 22, 1995.¹²² The Court also requested that the State inform the Court of the

118. *Id.* ¶ 24.

119. *Id.* ¶ 5.

120. *Id.*

121. *Id.* ¶ 30.

122. Blake v. Guatemala, Provisional Measures, Order of the Court, Inter-Am. Ct. H.R. (ser. E) “Having Seen” ¶ 2, “Decides” ¶ 1 (Aug. 18, 2000).

measures adopted to investigate threats against the witnesses so that those responsible can be punished.¹²³ Finally, the Court required the State to submit reports to the Commission on the adopted provisional measures every six months.¹²⁴ The Commission must then submit its observations on these reports to the Court within six weeks of receiving them.¹²⁵

June 2, 2001: The Court requested that the State maintain the necessary measures to protect the witnesses, take measures to investigate the threats to the witnesses, and continue to submit reports about the measures every six months.¹²⁶

November 27, 2002: The Court ordered the State to take necessary measures to comply with the Judgment on the Merits of January 22, 1999 and to submit a report on the steps the State has taken to comply with the ruling by March 30, 2003.¹²⁷ The Court also ordered the representatives and family of Mr. Blake to submit their comments on the State's report within two months of receiving it.¹²⁸

June 6, 2003: The Court terminated the previous provisional measures applied to Justo Victoriano Martínez Morales, one of the witnesses, due to his death.¹²⁹ The Court maintained the measures for the remaining witnesses in accordance to the previous provisional measures.¹³⁰ The Court required the State to report on the measures it has taken to comply with the order within fifteen days of receiving notification of it and then to continue to report to the Court on its compliance every three months.¹³¹ The Court also requested that the beneficiaries of the measures submit their comments on the reports within four weeks of receiving them and that the Commission presents its own comments on the report within six weeks of receiving notification.¹³²

123. *Id.* "Decides" ¶ 2.

124. *Id.* "Decides" ¶ 3.

125. *Id.*

126. Blake v. Guatemala, Provisional Measures, Order of the Court, Inter-Am. Ct. H.R. (ser. E) "Decides" ¶¶ 1, 2 (June 2, 2001).

127. Blake v. Guatemala, Monitoring Compliance with Judgment, Order of the President of the Court, Inter-Am. Ct. H.R. "Resolves" ¶¶ 1, 2 (Nov. 27, 2002).

128. *Id.* "Resolves" ¶ 3.

129. Blake v. Guatemala, Provisional Measures, Order of the Court, Inter-Am. Ct. H.R. (ser. E) "Having Seen" ¶ 6, "Decides" ¶ 1 (June 6, 2003).

130. *Id.* "Decides" ¶ 2.

131. *Id.* "Decides" ¶ 3.

132. *Id.* "Decides" ¶ 4.

November 27, 2003: The Court required the State to adopt necessary measures to conform to reparations outlined in the Judgments of January 24, 1998 and January 22, 1999.¹³³ The State must report to the Court regarding its compliance by April 1, 2004.¹³⁴ The Court also requested that the representatives of the victims submit their comments on the report within two months of receiving it.¹³⁵

November 17, 2004: The Court decided to continue the provisional measures of June 6, 2003 for an additional four months and to then decide if the measures should continue for longer.¹³⁶ The State must report back to the Court within two months of notification of this order.¹³⁷ The Court also requested that the beneficiaries and the Commission submit their comments on the report to the Court within four and six weeks, respectively.¹³⁸

June 14, 2005: The Court lifted and terminated the provisional measures ordered by the Court in its resolutions of September 22, 1995, April 18, 1997, August 18, 2000, June 2, 2001, June 6, 2003 and November 17, 2004.¹³⁹ The Court found that the State had made the appropriate compensations to the victims and sentenced the man who killed Mr. Blake and Mr. Davis to twenty-eight years in prison.¹⁴⁰

November 27, 2007: The Court holds that the State must take all necessary measures to comply with its rulings on the merits and reparations.¹⁴¹ The State must also report to the Court describing the measures it has taken to comply with the order by April 1, 2008.¹⁴² The Court also requested that Mr. Blake's family and the Commission submit any relevant observations upon receipt of the State's report

133. Blake v. Guatemala, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R., "Decides" ¶ 3 (Nov. 27, 2003).

134. *Id.* "Decides" ¶ 4.

135. *Id.* "Decides" ¶ 5.

136. Blake v. Guatemala, Provisional Measures, Order of the Court, Inter-Am. Ct. H.R. (ser. E) "Decides" ¶ 1 (Nov. 17, 2004).

137. *Id.* "Decides" ¶ 2.

138. *Id.* "Having Seen" ¶ 6.

139. Blake v. Guatemala, Provisional Measures, Order of the Court, Inter-Am. Ct. H.R. (ser. E) "Decides" ¶ 1 (June 14, 2005).

140. *Id.*

141. Blake v. Guatemala, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R., "Considering" ¶ 6 (Nov. 27, 2007).

142. *Id.* "Decides" ¶ 2.

within four and six weeks, respectively.¹⁴³

January 22, 2009: The Court repeated its orders of November 27, 2007 and requests that the State submit a detailed report with its adopted measures to comply with the Court's ruling by August 14, 2009.¹⁴⁴

VII. LIST OF DOCUMENTS

A. *Inter-American Court*

1. Preliminary Objections

[Blake v. Guatemala, Preliminary Objections, Judgment, Inter-Am. Ct. H.R. \(ser. C\) No. 27, \(July 2, 1996\).](#)

2. Decisions on Merits, Reparations and Costs

[Blake v. Guatemala, Merits, Judgment, Inter-Am. Ct. H.R. \(ser. C\) No. 36, \(Jan. 24, 1998\).](#)

[Blake v. Guatemala, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. \(ser. C\) No. 48, \(Jan. 22, 1999\).](#)

[Blake v. Guatemala, Interpretation of Reparations and Costs, Judgment, Inter-Am. Ct. H.R. \(ser. C\) No. 57, \(Oct. 1, 1999\).](#)

3. Provisional Measures

[Blake v. Guatemala, Provisional Measures, Order of the Court, Inter-Am. Ct. H.R. \(ser. E\) \(June 14, 2005\) \(Available only in Spanish\).](#)

[Blake v. Guatemala, Provisional Measures, Order of the Court, Inter-Am. Ct. H.R. \(ser. E\) \(Nov. 17, 2004\).](#)

[Blake v. Guatemala, Provisional Measures, Order of the Court, Inter-Am. Ct. H.R. \(ser. E\) \(June 06, 2003\).](#)

143. *Id.* "Decides" ¶¶ 3, 4.

144. *Blake v. Guatemala, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R., "Decides" ¶ 2 (Jan. 22, 2009).*

[Blake v. Guatemala, Provisional Measures, Order of the Court, Inter-Am. Ct. H.R. \(ser. E\) \(June 2, 2001\).](#)

[Blake v. Guatemala, Provisional Measures, Order of the Court, Inter-Am. Ct. H.R. \(ser. E\) \(Aug. 18, 2000\).](#)

[Blake v. Guatemala, Provisional Measures, Order of the Court, Inter-Am. Ct. H.R. \(ser. E\) \(Apr. 18, 1997\).](#)

[Blake v. Guatemala, Provisional Measures, Order of the Court, Inter-Am. Ct. H.R. \(ser. E\) \(Sept. 22, 1995\).](#)

[Blake v. Guatemala, Provisional Measures, Order of the President of the Court, Inter-Am. Ct. H.R. \(ser. E\) \(Aug. 16, 1995\).](#)

4. Compliance Monitoring

[Blake v. Guatemala, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. \(Jan. 22, 2009\).](#)

[Blake v. Guatemala, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. \(Nov. 27, 2007\).](#)

[Blake v. Guatemala, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. \(Nov. 27, 2003\).](#)

[Blake v. Guatemala, Monitoring Compliance with Judgment, Order of the President of the Court, Inter-Am. Ct. H.R. \(Nov. 27, 2002\) \(Available only in Spanish\).](#)

5. Review and Interpretation of Judgment

[None]

B. Inter-American Commission

1. Petition to the Commission

[None]

2. Report on Admissibility

[None]

3. Provisional Measures

[None]

4. Report on Merits

[None]

5. Application to the Court

[None]

VIII. BIBLIOGRAPHY

Renata Avila, *The Case of American Journalist Nicholas Blake and the Right to Truth*, ALJAZEERA (Mar. 27, 2013, 7:18 AM), <http://www.aljazeera.com/indepth/opinion/2013/03/2013326183435886772.html>.

PATRICK DONNELL BALL, ET AL., STATE VIOLENCE IN GUATEMALA, 1960-1996: A QUANTITATIVE REFLECTION, CH. 19 (1999).

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Pablo A. Ormachea, *Moiwana Village: The Inter-American Court and the "Continuing Violation" Doctrine*, 19 HARV. HUM. RTS J. 283 (2006).