

Members of Chichupac Village and Neighboring Communities of the Municipality of Rabinal v. Guatemala

ABSTRACT¹

This case is about the murder of hundreds of members of the village of Chichupac and neighboring communities of the municipality of Rabinal, in central Guatemala, between 1981 and 1982, the most intense and murderous phase of the 1962-1996 internal conflict. The State admitted partial responsibility and the Court found the State in violation of most articles of the American Convention, both for the events themselves and the subsequent failure to investigate, punish and remedy.

I. FACTS

1962-1996: The Guatemalan Civil War is fought between the government of the State and various leftist rebel groups supported chiefly by the rural poor, and in particular ethnic Maya indigenous people and Ladino peasants.

April 1982: The government launches the “National Plan for Security and Development,” and Operation “Victoria 82,” which involves “scorched earth” operations to end insurgent support in certain regions of the country.² The plan targets in particular Mayan-descent ethnic communities.

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2. Members of Chichupac Village and Neighboring Communities of the Municipality of Rabinal v. Guatemala, Preliminary Objections, Merits, Reparations and Costs, Inter-Am. Ct. H.R. (ser. C) No. 328, ¶ 78 (Nov. 30, 2016). (Available only in Spanish).

*A. Chronology of Events**1. Events pertaining to the executions of Juan Alvarado Grave, Mateo Grave, and Pedro Depaz Ciprián, and the disappearance of Pedro Siana*

August 23, 1981: Judicial Police officers execute Mr. Juan Alvarado Grave.³ When his brother, Mr. Mateo Grave, learns of this, he, Mr. Pedro Depaz Ciprián, and Mr. Pedro Siana go to the Hospital de Salamá in Baja Verapaz to retrieve the body.⁴ As they travel, a group of Judicial Police officers shoot them after which Mr. Mateo Grave and Mr. Depaz Ciprián are transferred to the Hospital de Salamá, while the location of Mr. Siana's body remains unknown.⁵

August 24, 1981: Mr. Mateo Grave dies of his gunshot wounds.⁶ When Mrs. Juana García Depaz, wife of Mr. Depaz Ciprián, hears that her husband's body is at Hospital de Salamá, she travels to the hospital.⁷ When she arrives, she is "threatened and persecuted" by three intoxicated Judicial Police officers.⁸

2. Events pertaining to the executions of Mr. Víctor Alvarado Valey, Ceferino Alvarado Sucup, Fidel Alvarado Sucup, Mr. Domingo Reyes Juárez, Andrés Reyes Román, and Santiago Reyes Román

January 1, 1982: Army and members of the Civil Self-Defense Patrol (Las Patrullas de Autodefensa Civil; "PAC"), local militias created by the government during the Guatemalan Civil War, enter the house of Mr. Alvarado Valey and kill him and his two sons, Ceferino Alvarado Sucup, and Fidel Alvarado Sucup.⁹ Later in the day, Members of the Army and PAC also enter the house of Mr. Reyes Juárez, Andrés Reyes Román, and 15-year-old Santiago Reyes Román, and kill them.¹⁰ The corpses of these men are found roughly 300 meters from their homes.¹¹ All of the bodies have their hands tied behind their back, their intestines taken out of their

3. *Id.* ¶ 85.

4. *Id.*

5. *Id.*

6. *Id.* ¶ 86.

7. *Id.*

8. Members of Chichupac Village and Neighboring Communities of the Municipality of Rabinal v. Guatemala, Preliminary Objections, Merits, Reparations and Costs, ¶ 86.

9. *Id.* ¶ 87.

10. *Id.*

11. *Id.*

bodies, and bullet wounds in their skulls.¹² Later, their bodies are taken to a hidden cemetery and buried by relatives.¹³

2002: Members of the Foundation of Forensic Anthropology of Guatemala (Fundación de Antropología Forense de Guatemala; “FAFG”) find the graves of the six men.¹⁴

2003: Family members of the men recognize the remains through the process of judicial recognition.¹⁵

3. *Events pertaining to the detention of Mr. Ciriaco Galiego López and the disappearance of Lorenzo Depaz Siprian*

January 8, 1982: Mr. Galiego López and Lorenzo Depaz Siprian leave their home to sell a bull in the municipality of Rabinal at approximately one in the morning.¹⁶ Members of the army and PAC intercept the men, jail them, and take their bull.¹⁷ Mr. Galiego López is released later that night, while Mr. Depaz Siprian’s whereabouts are still unknown.¹⁸

4. *Events pertaining to the massacre of the clinic of Chichupac Village*

January 8, 1982: Members of the Chichupac village and surrounding areas are promised gifts if they attend a meeting in the village clinic.¹⁹ PAC members create a party-like atmosphere, distributing toys to the children.²⁰ They then ordered the women to return home with the children and lock thirty-two men in the clinic.²¹ The men are ordered to walk with

12. *Id.*

13. *Id.*

14. *Members of Chichupac Village and Neighboring Communities of the Municipality of Rabinal v. Guatemala*, Preliminary Objections, Merits, Reparations and Costs, ¶ 87.

15. *Id.* ¶ 87.

16. *Id.* ¶ 88.

17. *Id.*

18. *Id.*

19. *Id.* ¶ 89.

20. *Members of Chichupac Village and Neighboring Communities of the Municipality of Rabinal v. Guatemala*, Preliminary Objections, Merits, Reparations and Costs, ¶ 89.

21. *Id.* ¶¶ 89-90. . The Court identifies the following as the men killed in the clinic massacre: Víctor Juárez Pánán or Víctor Juárez Pancán; Clemente Juárez Ixpancoc; Cruz Sic Cuxum or Cruz Sic Cuxún; Pedro Sic Jerónimo; Gregorio Garniga Valey or Gregorio Valey; Timoteo Sic Cujá or Mateo Sic Cujá; Roberto Galiego Chen; Antonio Alvarado González; Alfonso Cruz Juárez; Domingo Cahuec Sic or Domingo Cahuec Sic; Santiago Alvarado Xitumul; Agustín Juárez Ixpancoc; Teodoro González Xitumul; Eulogio Morales Alvarado; Luciano González or Luciano González Sis; Apolinario Juárez Pérez; Alberto Juárez Pérez; Evaristo Depaz Siana or Evaristo Siana; Pedro Tum or Pedro Pérez Ampérez; Emigdio Siana Ixtecoc or Emilio Siana Ixtecoc; Pedro Galiego López; Demetrio Chen Alvarado; Pedro Galiego Mendoza; Camilo Juárez Valey; Julián

their hands tied to a nearby summit where the PAC members kill them by shooting and strangulation and bury the bodies in two pits.²²

January 9, 1982: The military forces other men from the village to clean the clinic.²³ Inside, they find blood, ears, noses, and tongues.²⁴ Several days later, the community finds the buried body and reburies them appropriately.²⁵

1993: The FAFG find the burial sites and analyze the remains, which indicate violent deaths.²⁶ It found at least thirty bodies and identified six men: Domingo Cahuec Sic, Víctor Juárez Pánán, Cruz Sic Cuxum, Sponsorship Chen Galiego, Agustín Juárez Ixpancoc and Pedro Galiego Lópe.²⁷ The analysis of the bodies show that the men died violently, with ropes tied to their necks, hands tied behind their backs, bullet hole riddling the bodies, and multiple fractures.²⁸ Additionally, because the State did not properly bury the bodies, animals had eaten some of the corpses.²⁹

5. *Events pertaining to the sexual violation of Máxima Emiliana García Valey*

January 8, 1982: Ms. Máxima García Valey returns home from the clinic where the massacre occurs to bring water and food to her mother-in-law and husband and finds a group of soldiers, who violently grab her, interrogate her about the whereabouts of her relatives.³⁰ These relatives include her stepfather, her stepfather's son, and her son-in-law, and she states she does not know them.³¹ Though she is six to eight months pregnant, many soldiers get in line and rape her, beating her so badly she

Garniga or Julián Garniga López; Benito Juárez Ixpancoc; Francisco Depaz; Maximiliano Sis Valey or Maximiliano Sis Valin; Vicente Sic Osorio; Galiego Sponsorship or Chen Galiego Sponsorship or Chen Coaliego Sponsorship; Felix Alvarado Xitumul, and Demetrio Cahuec or Demetrio Cahuec Jerónimo or José Demetrio Cahuec Jerónimo. *Id.* ¶ 92.

22. *Id.* ¶ 90.

23. *Id.*

24. *Id.*

25. *Id.*

26. Members of Chichupac Village and Neighboring Communities of the Municipality of Rabinal v. Guatemala, Preliminary Objections, Merits, Reparations and Costs, ¶ 91.

27. *Id.*

28. *Id.*

29. *Id.*

30. *Id.* ¶ 93.

31. *Id.*

cannot walk afterwards.³² She becomes mute after the experience, and her son is born with congenital disabilities and suffers from seizures, dying before he reaches four years of age.³³

6. *Events pertaining to violence, displacement, and destruction in the Chichupac village community*

January 8, 1982: Army members take animals from the community during the clinic massacre while the village's male population flees into the mountains.³⁴ When the Army cannot find the men, they rape and kill the women left behind.³⁵ They threaten to kill the entire community, forcing the surviving members to leave their homes.³⁶ The PAC and Army destroy the community by burning the homes with all the belongings still inside, burning crops, stealing and slaughtering horses, chicken, pigs, livestock, and domesticated animals, stealing food, grains, domestic utensils and tools, and clothes, valuables, and other personal items.³⁷

For the following three months to three years, the villagers seek refuge in the mountains while the military continues violence against them.³⁸ The villagers suffer from the cold, thirst, and hunger, causing unhealthy living conditions and the illness and death of children. The State seeks out the villagers in the mountains by shooting into the area, throwing grenades and tracers, and bombing the mountain with low-flying airplanes, forcing the community members to hide inside of the mountains.³⁹ When the State's military finds community members, they capture, interrogate, torture and execute them, as well as raping any women they find.⁴⁰

1983: The Army decides to stop the persecution of Chichupac Village members, essentially reopening the city.⁴¹ They offer the villagers amnesty, but require them to live under military control, feeding and washing clothes of Military members.⁴²

32. *Members of Chichupac Village and Neighboring Communities of the Municipality of Rabinal v. Guatemala*, Preliminary Objections, Merits, Reparations and Costs, ¶ 93.

33. *Id.*

34. *Id.* ¶ 94.

35. *Id.*

36. *Id.*

37. *Id.* ¶ 96.

38. *Members of Chichupac Village and Neighboring Communities of the Municipality of Rabinal v. Guatemala*, Preliminary Objections, Merits, Reparations and Costs, ¶ 95.

39. *Id.*

40. *Id.*

41. *Id.* ¶ 97.

42. *Id.*

Between 1986 and 1987: The Army leaves the village, and the Family Integration Center (Centro de Integración Familiar; "CIF") provide resources to villagers to help them rebuild their lives.⁴³

1999: The survivors continue to live in fear and claim that they cannot return to their families and community.⁴⁴

7. Events pertaining to the disappearance and identification of Hugo García Depaz, Abraham Alvarado, Manuel de Jesús Alarcón Morente and Edmundo Alarcón Morente, the disappearance of Adrián García Manuel and Leonardo Cahuec González, and the detention of Miguel Chen Tahuico

January 18, 1982: Mr. Adrián García Manuel, his son Hugo García Depaz and his nephew Abraham Alvarado Tecú are recruited into a PAC and subsequently, while on a patrol, are detained by the Army and locked in the Chirrum village school.⁴⁵ Mrs. Juana García Depaz, the daughter of Mr. García Manuel, hears of the detainment and sends her daughter to bring them food.⁴⁶ The military refuses to let her deliver the food.⁴⁷ The men are transferred to a military camp in the Guachipelín village and are never seen again.⁴⁸ That same day, the brothers Jesus and Edmundo Alarcón Morente also disappear after Jesus leaves home to harvest cane and Edmundo is last seen tied up by soldiers.⁴⁹

Members of a PAC dressed in civilian clothing intercept Mr. Leonardo Cahuec González and Mrs. Albertina Sic Cuxúm, on their way home from baptizing one of their daughters, and ask for identification.⁵⁰ Subsequently, they tie Mr. Cahuec González's hands behind his back, and they both go to a prison.⁵¹ The guards tell Mrs. Sic Cuxúm that Mr. Cahuec González is a guerilla like all the other men of the Chichupac community and he will return home shortly.⁵² After she refuses to leave,

43. *Id.*

44. Members of Chichupac Village and Neighboring Communities of the Municipality of Rabinal v. Guatemala, Preliminary Objections, Merits, Reparations and Costs, ¶ 98.

45. *Id.* ¶ 99.

46. *Id.*

47. *Id.*

48. *Id.*

49. *Id.*

50. Members of Chichupac Village and Neighboring Communities of the Municipality of Rabinal v. Guatemala, Preliminary Objections, Merits, Reparations and Costs, ¶ 101.

51. *Id.*

52. *Id.*

the guards threaten to beat her.⁵³ Mr. Cahuec González is confined and not seen again.⁵⁴

Members of the Army find Mr. Miguel Chen Tahuico, who fled into the mountains after the clinic massacre, accompanied by four to six family members.⁵⁵ They accuse him of being a guerrilla, hang him from a tree, burn him on the chest with a cigar, and try to burn his tongue; they then put him on the ground, run over, jump on his stomach, and leave him tied up overnight, though he is guarded by soldiers.⁵⁶ The army then takes him to Chichupac village where he is threatened, interrogated and told that he must serve the military while living there.⁵⁷

2006: The FAFG excavates land near Guachipilín at the behest of Mrs. Juana García Depaz, wife of Mr. García Depaz, finding the executed corpses of Hugo García Depaz, the Alarcón Morente brothers, and Abraham Alvarado Tecú.⁵⁸ The bodies were thrown into the grave with their hands tied behind their backs, and laboratory tests indicate they died by having their throats cut.⁵⁹ Mr. García Manuel's whereabouts are still unknown.⁶⁰

8. Events pertaining to the disappearances of Mr. Juan Mendoza Alvarado and Mr. José Cruz Mendoza Sucup

January 31, 1982: Members of the Army and PAC enter the house of Mr. Mendoza Alvarado and Mr. Mendoza Sucup, take them from the house, and beat them for not knowing the whereabouts of other villagers.⁶¹ No one sees the two men again.⁶²

9. Events pertaining to the disappearances of Mrs. María Concepción Chen Sic and Casimiro Siana

February 12, 1982: State military members enter the home of Mrs. María Concepción Chen Sic, accuse her of providing food for guerilla members,

53. *Id.*

54. *Id.*

55. *Id.* ¶ 102.

56. Members of Chichupac Village and Neighboring Communities of the Municipality of Rabinal v. Guatemala, Preliminary Objections, Merits, Reparations and Costs, ¶ 102.

57. *Id.*

58. *Id.* ¶ 100.

59. *Id.*

60. *Id.*

61. *Id.* ¶ 103.

62. Members of Chichupac Village and Neighboring Communities of the Municipality of Rabinal v. Guatemala, Preliminary Objections, Merits, Reparations and Costs, ¶ 103.

and demand that she hand over her husband, Silvestre Sic Xutumul, who had left earlier that day with their two children.⁶³ The military also detains Mr. Casimiro Siana, the auxiliary mayor, while she is watering plants near her house.⁶⁴ Members of the Army and PAC take Mrs. Chen Sic and Mr. Siana on a forced walk with many other captured women.⁶⁵ At one point they are separated from the rest of the group and disappear.⁶⁶

10. Events pertaining to the execution Mr. Andrea Osorio Galeano

February 19, 1982: A group of soldiers take Mr. Osorio Galeano from his house.⁶⁷

February 20, 1982: Mr. Galeano's son finds his buried corpse roughly one kilometer from the house.⁶⁸ Laboratory tests indicate he suffered multiple fractures, including multiple fractured vertebrae.⁶⁹

11. Events pertaining to the executions of Mr. Elías Milián González and Amelia Milián Morales

March 22, 1982: Soldiers arrest Mr. Elías Milián González on his way to Rabinal.⁷⁰

March 23, 1982: Soldiers hang Mr. Milián González in Chijom village.⁷¹ His family discovers his corpse several days later in a sugar panela oven.⁷²

April 1, 1982: Soldiers arrest Amelia Milián Morales, Mr. Milián González's daughter, after entering her home.⁷³ Mr. Milián González's sister finds her corpse later that day in a sugar panela oven.⁷⁴

63. *Id.* ¶ 104.

64. *Id.*

65. *Id.*

66. *Id.*

67. *Id.* ¶ 105.

68. Members of Chichupac Village and Neighboring Communities of the Municipality of Rabinal v. Guatemala, Preliminary Objections, Merits, Reparations and Costs, ¶ 105.

69. *Id.*

70. *Id.* ¶ 106.

71. *Id.*

72. *Id.*

73. *Id.*

74. Members of Chichupac Village and Neighboring Communities of the Municipality of Rabinal v. Guatemala, Preliminary Objections, Merits, Reparations and Costs, ¶ 106.

2007: Ms. Milián Morales's body is exhumed with two other individuals; however, her cause of death cannot be determined.⁷⁵

2011: The FAFG analyzes human remains, finding that they belong to Mr. Milián González who "received at least one blunt impact on [the] mandible."⁷⁶

April 18, 2012: The Assistant Prosecutor of the Municipal Prosecutor's Office of the Public Ministry of Rabinal gives Mr. Milián González's remains to his daughter, Tarcila Milián.⁷⁷

12. Events pertaining to the rape and execution of Mrs. Gregoria Valey Ixtecoc

November 22, 1982: Members of PAC and the Army arrive at Mrs. Gregoria Valey Ixtecoc's house early in the morning and leave after asking for her husband, who is not present.⁷⁸ She is four to eight months pregnant.⁷⁹ Members of the military return around noon, rape her, hang her from the roof of the house, and burn the house down.⁸⁰ She is buried the same day by her relatives.⁸¹

13. Events pertaining to the disappearance of Juan Pérez Sic

November 15, 1981: Judicial Police arrive at the home of Manuela Toj Pérez and Juan Pérez Sic at approximately 6 p.m.⁸² He walks outside to speak to the soldiers, while other soldiers enter the house to register it.⁸³ He is taken and never again seen alive.⁸⁴

75. *Id.* ¶ 107.

76. *Id.*

77. *Id.*

78. *Id.* ¶ 108.

79. *Id.*

80. Members of Chichupac Village and Neighboring Communities of the Municipality of Rabinal v. Guatemala, Preliminary Objections, Merits, Reparations and Costs, ¶ 108.

81. *Id.*

82. *Id.* ¶ 109.

83. *Id.*

84. *Id.*

14. *Events pertaining to the disappearance of eight people and the detention of Mr. Napoleón García De Paz*

November 26, 1982: In the afternoon, military and PAC members detain nine people: Gorgonio Gonzalez Gonzalez; Gabino Román Yvoy (or Iboy or Ivoy); Cruz Pérez Ampérez; Eustaquio Ixtecoc Gonzalez (or Eustaquio Yxtecoc Gonzalez); Jorge Galeano Román; Rafael Depaz Tecú; Enrique Mendoza Sis; Dionisio Vachán (or Bachan), and Napoleón García DePaz (or Napoleón García Depaz or Napoleón García de Páz.⁸⁵ The group of soldiers ties their hands and takes them to a cemetery, where the villagers are forced to lie face down while they are hat in the back with the butts of rifles.⁸⁶ Mr. García De Paz unties his hands at one in the morning and is the sole person able to escape; the location of the eight others remains unknown.⁸⁷

2004: The FAFG attempts to locate and excavate the remains of the eight missing men but is unable to find them.⁸⁸

December 22, 2014: The FAFG files an Expert Opinion of the Forensic Anthropological Investigation in the San Francisco Cemetery of the Chichupac village with the Public Prosecutor's Office.⁸⁹ The opinion indicates that the FAFG searched the cemetery again on March 7, 2012 and June 20, 2013, but still could not locate the remains.⁹⁰

15. *Events pertaining to the execution of eight people*

March 2, 1983: Eighteen people attempt to escape violence by fleeing into the mountains.⁹¹ The Army surprises them at five in the morning and begins attacking the refugees with guns and machetes.⁹² Ten people manage to escape, including Mr. Napoleon Garcia de Paz and his

85. *Id.* ¶ 110.

86. Members of Chichupac Village and Neighboring Communities of the Municipality of Rabinal v. Guatemala, Preliminary Objections, Merits, Reparations and Costs, ¶ 110. The nine people are Gorgonio Gonzalez Gonzalez; Gabino Román Yvoy; Cruz Pérez Ampérez; Eustaquio Ixtecoc Gonzalez; Jorge Galeano Román; Rafael Depaz Tecú; Enrique Mendoza Sis; Dionisio Vachán, and Napoleón García De Paz. *Id.*

87. *Id.* ¶¶ 110-11.

88. *Id.* ¶ 111.

89. *Id.*

90. *Id.*

91. *Id.* ¶ 112.

92. Members of Chichupac Village and Neighboring Communities of the Municipality of Rabinal v. Guatemala, Preliminary Objections, Merits, Reparations and Costs, ¶ 112.

family.⁹³ The military kills eight and wounds Mr. García De Paz with two bullets.⁹⁴ The eight victims of the attack are: five children, Rosa González Tecú, 10 years old, María Concepción Xitumul Xitumul (or Maria Ixtococ Chitumul), 5 years old, Héctor Rolando Alvarado García, 4 years old, Adela Florentina Alvarado García (or Delia Alvarado García), 1 years old, and a baby girl between zero and three months who could not be identified, and; three adults, Enriqueta Tecú (or Enriqueta Tecú Chiquito), Lucía Xitumul Ixpancoc (or Luciana Xitumul Ixpancoc), and Luciano Alvarado Xitumul (or Luciano Alvarado Chitumul).⁹⁵ Family members later bury the bodies.⁹⁶

2004: The FAFG locates the remains of six of the related individuals and finds evidence of extreme violence at the time of death.⁹⁷

16. Events pertaining to the death of Antonio Chen Mendoza

March 1983: Mr. Miguel Chen Tahuic, Mrs. Vicenta Mendoza Alvarado, and their four children, including Antonio Chen Mendoza, a six-year-old, flee into the mountains to avoid violence from the military.⁹⁸ Antonio Chen Mendoza soon has diarrhea and fever from exposure to the weather, leading to his death.⁹⁹ His family buries him, but is unable to determine his exact date of death as they had been no way to keep track of the days while hiding.¹⁰⁰

17. Events pertaining to the executions of Eusebia and José León Grave García

October 22, 1983: Soldiers and members of PAC encounter José León Grave García and Eusebia León Grave García, who are respectively 18 and 17 years old and the children of Juana García Depaz, while Eusebia was bathing in a ravine and José was eating breakfast.¹⁰¹ The soldiers cut off the genitals, nose, and ears of the boys, and “open” up their bodies

93. *Id.*

94. *Id.*

95. *Id.*

96. *Id.*

97. *Id.* ¶ 113.

98. *Members of Chichupac Village and Neighboring Communities of the Municipality of Rabinal v. Guatemala, Preliminary Objections, Merits, Reparations and Costs*, ¶ 114.

99. *Id.*

100. *Id.*

101. *Id.* ¶ 115.

before they die.¹⁰² Their family members later bury their bodies in the mountains.¹⁰³

2002: The FAFG identifies the grave of the two boys.¹⁰⁴

2003: Mrs. García Depaz identifies the bodies of her sons through judicial recognition.¹⁰⁵

18. Events pertaining to Juana García Depaz

October 22-25, 1983: Approximately 200 judicial police and soldiers gather a group of women and children, including Ms. Juana García Depaz, and burn their clothes and food.¹⁰⁶ They hold the group without food or water for three days while raping and beating the women.¹⁰⁷ The soldiers threaten, interrogate, and temporarily hang Ms. García Depaz with a ribbon.¹⁰⁸ On the third day, the soldiers transfer the children to Rabinal church sanitarium.¹⁰⁹

December 31, 1983-January 1, 1984: The detained group relocates to Chichupac village where they were forced to live in concentrated galleys. The women were forced to cook for soldiers without being allowed to eat themselves, and were consistently raped.¹¹⁰

October 1982 and June 1985: Ms. García Depaz becomes pregnant twice as a result of the rapes, leading to the birth of her two children, Edgar and Sandra Maribel García.¹¹¹

19. Events pertaining to the execution of Medardo Juárez García

August 21, 1983, or 1984: Members of the Army and PAC enter the house of Mrs. María Concepción García Depaz, her husband, and five children, and begin shooting. Medardo Juárez García, who is 14 or 16

102. *Id.*

103. *Id.*

104. Members of Chichupac Village and Neighboring Communities of the Municipality of Rabinal v. Guatemala, Preliminary Objections, Merits, Reparations and Costs, ¶ 115.

105. *Id.*

106. *Id.* ¶ 116.

107. *Id.*

108. *Id.*

109. *Id.*

110. Members of Chichupac Village and Neighboring Communities of the Municipality of Rabinal v. Guatemala, Preliminary Objections, Merits, Reparations and Costs, ¶ 116.

111. *Id.*

years old, becomes frightened and runs into the street.¹¹² The military kills him by shooting and later steal the valuables in the house before burning it down with several other homes in the village.¹¹³ His family members later bury his body.¹¹⁴

2002: The FAFG locates and exhumes the remains of Medardo Juárez García.¹¹⁵

20. Events pertaining to the disappearance of Marcelo Sic Chen

December 13-15, 1984: Mr. Sic Chen arrives at Chichupac village to surrender and ask for amnesty.¹¹⁶ Soldiers take him to a military commissioner and then to Rabinal, after which, he disappears and is never seen again.¹¹⁷

21. Events pertaining to the executions of Silvestre Sic and Raymunda Corazón

December 20, 1984: Members of PAC and the military enter the house of Mr. Silvestre Sic, father of Marcelo Sic Chen, and Ms. Raymunda Corazón and kill them with a gun early in the morning.¹¹⁸ Their neighbors found their bodies “destroyed” and buried them in a nearby latrine.¹¹⁹

2002: The FAFG finds and exhumes the bones of the two people¹²⁰

22. Events pertaining to the execution of Efraín García de Paz

August 17, 1986: Mr. Efraín García de Paz, Juana García Depaz’s brother, returns to the area after hiding for three years. Judicial officers intercept and execute Efraín García de Paz while he was walking on the road between Chichupac and Rabinal.¹²¹ Ms. García Depaz and her family members bury his body.¹²²

112. *Id.* ¶ 117.

113. *Id.*

114. *Id.*

115. *Id.*

116. *Members of Chichupac Village and Neighboring Communities of the Municipality of Rabinal v. Guatemala, Preliminary Objections, Merits, Reparations and Costs*, ¶ 118.

117. *Id.*

118. *Id.* ¶ 119.

119. *Id.*

120. *Id.*

121. *Id.* ¶ 120.

122. *Members of Chichupac Village and Neighboring Communities of the Municipality of Rabinal v. Guatemala, Preliminary Objections, Merits, Reparations and Costs*, ¶ 120.

The Subsequent Investigations of the Massacres in the Chichupac Village and the Surrounding Areas

March 1993: The Unit of Special Cases and Violations to the Human Rights of the Public Prosecutor's Office opens an investigation into the January 8, 1992 massacre.¹²³ The investigation remains ongoing.¹²⁴

September 2, 1996: The Human Rights Ombudsman of Guatemala issues a resolution to locate the bodies buried on local clandestine cemeteries, noting that the killings were not isolated incidents and were crimes against humanity, identified the State's civil and military authorities as responsible for the human rights violations, and recommended that the Attorney General of the Nation conduct a "sever, prompt, and continued investigation and prosecution" of the killing and punish those responsible.¹²⁵

1995-2010: Nine complaints pertaining to the events are processed, two of which are filed in the Municipal Prosecutor's Office of the Public Ministry of Rabinal and seven in the District Attorney's Office of the Public Ministry of Salamá.¹²⁶ These complaints alleged executions, violence, rape, torture, forced servitude, and executions, among other crimes.¹²⁷ Several of the complaints listed the names and whereabouts of the soldiers who committed the atrocities, as well as a list of witnesses.¹²⁸ In seven of these files, the State did not attempt to find those responsible.¹²⁹ In five cases, the State only exhumed the corpses and sometimes returned the remains to the family members of the victims.¹³⁰ In two cases, the State conducted no investigative activity whatsoever.¹³¹

2011: The State claims that it has conducted several investigative activities with a file allegedly handled by the Special Cases Unit, but cannot provide any documentation supporting its statement, even though the Court requested proof of the investigation.¹³²

123. *Id.* ¶ 121.

124. *Id.*

125. *Id.* ¶¶ 121, 253.

126. *Id.* ¶ 122.

127. *Id.*

128. Members of Chichupac Village and Neighboring Communities of the Municipality of Rabinal v. Guatemala, Preliminary Objections, Merits, Reparations and Costs, ¶ 122.

129. *Id.*

130. *Id.*

131. *Id.*

132. *Id.* ¶ 123.

B. Other Relevant Facts

During the prolonged armed conflict in Guatemala between 1962 and 1996, the concept of an “enemy within” arose among State defense forces.¹³³ In 1982, due to a desire to destroy guerillas in the north, the Army created a plan to destroy those they deemed “subversives” or the “enemy within.”¹³⁴ The ruthlessness of this plan resulted in State forces destroying defenseless communities in such a high number that the period became the most violent of the decades-long conflict.¹³⁵ 83.3 percent of the victims of these human rights violations were Mayan indigenous peoples, indicating that the State used racial prejudice to attempt to wipe out the entire ethnic population.¹³⁶

In April 1982, the State government deployed its “National Plan for Security and Development,” and Operation “Victoria 82,” which imposed “scorched earth” operations to end insurgent support in certain regions of the country.¹³⁷ These operations resulted in approximately 626 massacres conducted by the State army, including deaths by extreme acts of cruelty, and the mass flight of an estimated 500,000 and 1.5 million indigenous peoples.¹³⁸ Additionally, 99 percent of female victims were raped, indicating that the State was using the rape of women as a weapon of war to destroy the dignity of indigenous women.¹³⁹ The State additionally killed pregnant women and induced abortions.¹⁴⁰ Furthermore, thousands of children were forcibly separated from their families, illegally detained and adopted, and subjected to servitude.¹⁴¹

Guatemala’s racial targeting had lasting cultural effects on Mayan villages.¹⁴² Traditional indigenous leadership and authority structures were dismantled and the social relationships within the communities were destroyed.¹⁴³ The cultural values and practices of Mayan women were lost, and social, economic, and institutional policies disappeared.¹⁴⁴ The

133. *Members of Chichupac Village and Neighboring Communities of the Municipality of Rabinal v. Guatemala*, Report on Merits, Report No. 6/14, Inter-Am. Comm’n H.R., Case No. 12,788, ¶¶ 36, 38 (Apr. 2, 2014).

134. *Id.* ¶ 41.

135. *Id.* ¶ 42.

136. *Members of Chichupac Village and Neighboring Communities of the Municipality of Rabinal v. Guatemala*, Preliminary Objections, Merits, Reparations and Costs, ¶ 77.

137. *Id.* ¶ 78.

138. *Id.*

139. *Id.* ¶ 79.

140. *Id.*

141. *Id.*

142. *Members of Chichupac Village and Neighboring Communities of the Municipality of Rabinal v. Guatemala*, Preliminary Objections, Merits, Reparations and Costs, ¶ 80.

143. *Id.*

144. *Id.*

State first targeted the elderly in the indigenous communities, who were the backbones of the people and were charged with passing down accumulated knowledge and tradition, effectively eliminating the Mayan histories and culture.¹⁴⁵

The civil war ended in December of 1996 with a treaty that establishes the Commission for Historical Clarification, who is responsible for chronicling the violence and human rights violations inflicted during the civil war.¹⁴⁶ On February 25, 1999, this commission publishes *Guatemala, Memory of Silence*, its report on the atrocities inflicted during the civil war.¹⁴⁷ The Court uses this report to establish a majority of the facts in this case.¹⁴⁸

This case involves the atrocities committed by the State in the communities of Chichupac, Xeabaj, Chijom, Coyojá, El Tablón, Toloxcoc, Chirrum, El Chol and El Apazote.¹⁴⁹ The State murdered at least twenty percent of this region's population.¹⁵⁰ 99.8 percent of these victims were civilian Mayans.¹⁵¹

II. PROCEDURAL HISTORY

A. *Before the Commission*

December 13, 2007: The Popular Law Firm Association presents the petition to the Commission.¹⁵²

November 1, 2010: The Commission approves the Report on Admissibility.¹⁵³

November 29, 2010: The Commission communicates with both parties indicating a desire to reach a settlement.¹⁵⁴

145. *Id.*

146. *Id.* ¶ 76.

147. *Id.* ¶ 77.

148. Members of Chichupac Village and Neighboring Communities of the Municipality of Rabinal v. Guatemala, Preliminary Objections, Merits, Reparations and Costs, ¶ 77.

149. *Id.* ¶ 82.

150. *Id.* ¶ 84.

151. *Id.*

152. *Id.* ¶ 2.

153. *Id.*

154. Members of Chichupac Village and Neighboring Communities of the Municipality of Rabinal v. Guatemala, Report on Merits, ¶ 2.

April 2, 2014: The Commission issues the Report on the Merits.¹⁵⁵ The commission concludes that the State of Guatemala likely indicated a violation of Article 3 (Right to Juridical Personality), 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 11 (Right to Privacy), Article 12 (Freedom of Conscience and Religion), Article 16 (Freedom of Association), Article 17 (Rights of the Family), Article 19 (Rights of the Child), Article 21 (Right to Property), Article 22 (Freedom of Movement and Residence), Article 23 (Right to Participate in Government), Article 24 (Right to Equal Protection) and Article 25 of the American Convention; Article I of the Inter-American Convention on Forced Disappearance of Persons; and Article 7 of the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women to the detriment of the victims.¹⁵⁶

The Court recommends that the State of Guatemala: (1) make reparations for the committed human rights violations; (2) identify victims, assist in their continued identification, and return the remains; (3) establish a method to determine which of the victims disappeared and which survived; (4) find the victim's remains and return them to family; (5) create a means to assist in the identification of victim's families to assist them in claiming reparations; (6) conduct local investigations and proceedings for the purpose of clarifying facts and imposing penalties; (7) improve the ability of the judicial branch to investigate and punish the responsible parties; (8) order proper measures to prevent activities like those in the present case from happening again; (9) adopt further measures to ensure nothing like this happens again, particularly by implementing more human rights and humanitarian programs.¹⁵⁷

2014: The State presents a report indicating that a "National Reparation Program" exists, but does not indicate any actions regarding the victims of this specific case.¹⁵⁸

155. *Members of Chichupac Village and Neighboring Communities of the Municipality of Rabinal v. Guatemala*, Preliminary Objections, Merits, Reparations and Costs, ¶ 2.

156. *Members of Chichupac Village and Neighboring Communities of the Municipality of Rabinal v. Guatemala*, Admissibility Report, Report No. 31/99, Inter-Am. Comm'n H.R., Case No. 11.763, ¶ 330 (Mar. 11, 1999).

157. *Id.* ¶ 331.

158. *Members of Chichupac Village and Neighboring Communities of the Municipality of Rabinal v. Guatemala*, Preliminary Objections, Merits, Reparations and Costs, ¶ 2.

B. Before the Court

August 5, 2014: The Commission submits the case to the Court after the State failed to adopt its recommendations.¹⁵⁹

1. Violations Alleged by Commission¹⁶⁰

Article 3 (Right to Juridical Personality)
 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 11 (Right to Privacy)
 Article 12 (Freedom of Conscience and Religion)
 Article 16 (Freedom of Association)
 Article 17 (Rights of the Family)
 Article 19 (Rights of the Child)
 Article 21 (Right to Property)
 Article 22 (Freedom of Movement and Residence)
 Article 23 (Right to Participate in Government)
 Article 24 (Right to Equal Protection)
 Article 25 (Right to Judicial Protection)

all in relation to:

Article 1(1) (Obligation of Non-Discrimination) of the American Convention.

Article I (Obligation to Adopt Measures) of the Inter-American Convention on the Forced Disappearance of Persons.

Article 7 (Duty to Prevent, Punish, and Eradicate Violence Against Women) of the Inter-American Convention to Prevent, Punish, and Eradicate Violence Against Women (Convention of Belém de Pará).

2. Violations Alleged by Representatives of the Victims¹⁶¹

The same violations alleged by the Commission, as well as

Article 13 (Freedom of Thought and Expression)

in relation to:

159. *Id.*

160. *Id.*

161. Members of Chichupac Village and Neighboring Communities of the Municipality of Rabinal v. Guatemala, Admissibility Report, ¶ 2. The Asociación Bufete Jurídico Popular served as representatives for the alleged victims. Members of Chichupac Village and Neighboring Communities of the Municipality of Rabinal v. Guatemala, Preliminary Objections, Merits, Reparations and Costs, ¶ 4.

Article 1(1) (Obligation of Non-Discrimination) of the American Convention

April 23, 2015: The state submits four preliminary objections: (1) the Court lacks *ratione temporis* jurisdiction; (2) the Court lacks *ratione materiae* jurisdiction; (3) the victims failed to exhaust all domestic remedies, and; (4) the victims cannot submit another claim against the State for the same acts pertaining to a prior claim.¹⁶²

June 25, 2015: The representatives give sixty-two documents containing the birth, marriage, and death certificates of members of the Chichupac village to the Court.¹⁶³

April 8, 2016: The State partially acknowledges its international responsibility for violating the rights enshrined in the American Convention by recognizing it violated Articles 8 (Right to a Fair Trial) and 25 (Right to Judicial Personality).¹⁶⁴

April 19, 2016: The representatives provide the Court with a list of 212 victims who were uprooted, forcibly displaced, and persecuted in this case.¹⁶⁵ The representatives also give the Court marriage, birth, and death certificates of some of the victims.¹⁶⁶

May 3, 2016: Alejandro Valencia Villa submits an amicus curiae brief to the Court.¹⁶⁷

May 11, 2016: Impunity Watch submits an amicus curiae brief to the Court.¹⁶⁸

May 12, 2016: The Due Process of Law Foundation and Mrs. Léa Réus submit amicus curiae briefs to the Court.¹⁶⁹

May 13, 2016: “Teachers of the Department of Sociopolitical and Legal Studies and of the Teaching Coordination of Law Constitutional Law and

162. *Id.* ¶ 14.

163. *Id.* ¶ 66.

164. *Id.* ¶ 51.

165. *Id.* ¶ 60.

166. *Id.* ¶ 66.

167. *Members of Chichupac Village and Neighboring Communities of the Municipality of Rabinal v. Guatemala*, Preliminary Objections, Merits, Reparations and Costs, ¶ 9.

168. *Id.*

169. *Id.*

Human Rights,” students of the Law Degree of the Technological Institute and Higher Studies of the West (ITESO), “Santiago Medina Villarreal[,] and the Corporation for the Defense and Promotion of Human Rights RESET” submit amicus curiae briefs to the Court.¹⁷⁰

May 30, 2016: The representatives provide the Court a list of general victims and their families and request that the Court allow them to continue identifying victims in the case.¹⁷¹ The Court determines that this list of victims, containing 477 people, is likely the best representation of all of the victims of this case; however, the Court allows the representatives to bring forward new victims due to the complexity and age of the case, so long as the representatives can provide adequate proof of the victims’ existence.¹⁷²

June 2, 2016: The representatives give the Court a list of general certificates and victims.¹⁷³

June 26, 2016: The representatives of the victims request the Court to acknowledge that all the families and residents of the Chichupac community and the neighboring communities of the Rabinal are victims in this case.¹⁷⁴ The representatives provide the Court a list of thirty-nine families to add to the case.¹⁷⁵

III. MERITS

A. *Composition of the Court*

Roberto F. Caldas, President
Eduardo Ferrer Mac-Gregor Poisot, Vice President
Eduardo Vio Grossi, Judge
Humberto Antonio Sierra Porto, Judge
Elizabeth Odio Benito; Judge
Eugenio Raúl Zaffaroni, Judge
L. Patricio Pazmiño Freire, Judge;

Pablo Saavedra Alessandri, Secretary
Emilia Segares Rodríguez, Deputy Secretary

170. *Id.*

171. *Id.* ¶ 60.

172. *Id.* ¶ 65.

173. Members of Chichupac Village and Neighboring Communities of the Municipality of Rabinal v. Guatemala, Preliminary Objections, Merits, Reparations and Costs, ¶ 66.

174. *Id.* ¶ 60.

175. *Id.*

B. Decision on the Merits

November 30, 2016: The Court issues its Judgment on Preliminary Objections, Merits, Reparations, and Costs.¹⁷⁶

The Court determined

To partially accept the State's preliminary objection alleging the Court lacked *ratione temporis* jurisdiction,¹⁷⁷ because:

The State did not accept the contentious jurisdiction of the Court until March 9, 1987, when it submitted a reservation claiming the Court could not consider continuous violations that began prior to the acceptance date.¹⁷⁸ The Court determined it could adjudicate violations that occurred after the State recognized the Court's jurisdiction.¹⁷⁹ The Court then clarified that the State could not prevent it from evaluating violations within its jurisdiction or else it could not properly determine whether the State was internationally responsible for the violations.¹⁸⁰ However, in its reservation, the State did not say the Commission could not analyze violations of a continuing nature; moreover, through the Court processes, the State acknowledged its responsibility to the Commission by not denying the facts of this case. Accordingly, the State determined it had no jurisdiction over the arbitrary detentions, extrajudicial executions, torture, sexual violence, forced labor and destruction of property committed between 1981 and 1986, but it does have jurisdiction over the continuing nature of these acts.¹⁸¹

To dismiss three of the State's preliminary objections,¹⁸² because:

*In regards to the State's preliminary objection pertaining to the Court's lack of *ratione materialis* jurisdiction, the State presented four arguments: (1) the Court cannot hear alleged violations of the Inter-American Convention on Forced Disappearance of Persons and the Convention of Belém de Pará; (2) the Court cannot determine the crimes committed; (3) the Court does not have jurisdiction to determine whether there was a*

176. *See Generally Id.*

177. *Id.* "Decides," ¶ 1.

178. *Id.* ¶ 18.

179. Members of Chichupac Village and Neighboring Communities of the Municipality of Rabinal v. Guatemala, Preliminary Objections, Merits, Reparations and Costs, ¶ 19.

180. *Id.* ¶ 20.

181. *Id.* ¶ 24.

182. *Id.* "Decides," ¶¶ 2-8.

*genocide, nor can it determine a violation of the Convention for the Prevention and Punishment of the Crime of Genocide, and; (4) the Court cannot find a decree of amnesty invalid.*¹⁸³

*First, the Court noted that when the State ratified the Inter-American Convention on Forced Disappearance of Persons, it did not limit the Court's jurisdiction, and the convention establishes that the Court can hear cases to determine the State's compliance to the convention.*¹⁸⁴ *Additionally, this objection relates to substantive issues that must be determined in the merits.*¹⁸⁵ *Accordingly, the Court determined it could hear violations related to the Inter-American Convention on Forced Disappearance of Persons.*¹⁸⁶ *The Court made the same determination for the State's argument pertaining to the Convention Belém de Pará.*¹⁸⁷

*Second, the Court determined that the State had no basis to claim the Court cannot determine the commission of crimes because it is the Court's responsibility to determine whether State agencies has committed a crime as part of its jurisdiction in cases brought before it.*¹⁸⁸

*Third, the Court dismissed the State's argument that the Court could not determine a violation of the Convention for the Prevention and Punishment of the Crime of Genocide because neither the Commission nor the representatives alleged a violation of this convention.*¹⁸⁹

*Finally, the Court dismissed the State's argument that it could not find the Law of Reconciliation invalid because that provides context to the merits of the case and neither the Commission nor the representatives requested the Court to make such a determination.*¹⁹⁰

In regards to the State's preliminary objection of the victims' failure to exhaust domestic remedies, the State argued that the victims did not file writs of habeas corpus or personal exhibitions and did not use the State's

183. *Id.* ¶ 25.

184. *Id.* ¶ 29.

185. *Members of Chichupac Village and Neighboring Communities of the Municipality of Rabinal v. Guatemala, Preliminary Objections, Merits, Reparations and Costs*, ¶ 29.

186. *Id.*

187. *Id.* ¶ 30.

188. *Id.* ¶ 35.

189. *Id.* ¶ 31.

190. *Id.* ¶ 39.

administrative program called the National Program of Reparation.¹⁹¹ However, the State failed to bring up the availability of habeas corpus writs or the National Reparation Program during the Admissibility phase.¹⁹² Moreover, the State failed to indicate why the National Reparation Program was an appropriate remedy.¹⁹³ Accordingly, the Court dismissed this preliminary objection.¹⁹⁴

In regards to the State's preliminary objection claiming the victims have no right to claim pertaining to facts of a prior claim, the State argued that it already compensated many victims through the National Reparation Program and signed settlements with those victims.¹⁹⁵ However, due to the State's failure to properly investigate the violations, the Court determined it could still analyze the alleged violation because of the State's failure to observe its duties under the Convention.¹⁹⁶ Accordingly, the Court dismissed this preliminary objection.¹⁹⁷

To accept the State's partial recognition of international responsibility,¹⁹⁸ because:

The State acknowledged during the public hearing that it was responsible for violating Articles 8 (Right to a Fair Trial) and 25 (Right to Judicial Personality).¹⁹⁹ The Court accepted this partial acknowledgement of international responsibility and decided it would not make a determination of violations relating solely to these Articles.²⁰⁰ Additionally, because the State did not deny the facts of this case as outlined in the Report of the Commission for Historical Clarification, the Court found the State acknowledged those facts as correct through the doctrine of estoppel.²⁰¹

The Court found unanimously that Guatemala had violated:

191. Members of Chichupac Village and Neighboring Communities of the Municipality of Rabinal v. Guatemala, Preliminary Objections, Merits, Reparations and Costs, ¶ 44.

192. *Id.* ¶¶ 45-46.

193. *Id.* ¶ 46.

194. *Id.* ¶ 47.

195. *Id.* ¶ 48.

196. *Id.* ¶ 50.

197. Members of Chichupac Village and Neighboring Communities of the Municipality of Rabinal v. Guatemala, Preliminary Objections, Merits, Reparations and Costs, ¶ 50.

198. *Id.* "Decides," ¶ 9.

199. *Id.* ¶ 55.

200. *Id.* ¶ 56.

201. *Id.* ¶¶ 57-58.

Articles 7 (Right to Personal Liberty), 5(1) (Right to Physical, Mental, and Moral Integrity) and 5(2) (Prohibition of Torture, and Cruel, Inhumane or Degrading Treatment), 4(1) (Prohibition of Arbitrary Deprivation of Life) and 3 (Right to Juridical Personality) in relation to Article 1(1) (Obligation of Non-Discrimination) of the American Convention, and in relation to Article I(a) (Prohibition of Practicing, Tolerating, or Permitting Forced Disappearances) of the Inter-American Commission on The Forced Disappearance of Persons, to the detriment of 22 victims²⁰² because:

The detention of the twenty-two victims was enough to establish a violation of the right to personal liberty.²⁰³ After being detained, State agents placed the victims in a vulnerable situation where they were exposed to serious risk, violating their right to personal integrity in all respects.²⁰⁴ When in custody, many if not all were subject to torture and murder.²⁰⁵ Even without clearly establishing torture, the detention led to isolation and coercive conduct, which is a form of inhuman conduct.²⁰⁶ Finally, the length of time for which the victims were missing, in conjunction with the associated violence, is enough to conclude that the victims lost their lives.²⁰⁷ This type of forced disappearance violated Articles 4(1) (Prohibition of Arbitrary Deprivation of Life), 5(1) (Right to Physical, Mental, and Moral Integrity) and 5(2) (Prohibition of Torture, and Cruel, Inhumane or Degrading Treatment) of the American Convention.²⁰⁸

The Court's previous rulings established that cases of forced disappearances could violate a person's Right to Juridical Personality.²⁰⁹

202. *Id.* "Decides" ¶ 10. The victims of this violation are: Pedro Siana, Juan Pérez Sic, Lorenzo Depaz Siprian (or Lorenzo Depaz Ciprian or Florencio Depaz Cipriano), Leonardo Cahuec Gonzales, Juan Mendoza Alvarado, José Cruz Mendoza Sucup, María Concepción Chen Sic, Casimiro Siana, Cruz Pérez Ampérez, Gorgonio Gonzalez Gonzalez, Jorge Galeano Román, Eustaquio Ixtecoc Gonzalez (or Eustaquio Yxtecoc Gonzalez), Rafael Depaz Tecú, Enrique Mendoza Sis, Gabino Román Yvoy (or Iboy or Ivoy), Dionicio or Dionisio Vachan or Bachán, Marcelo Sic Chen, Adrián García Manuel, Hugo García Depaz, Abraham Alvarado Tecú (or Agapito Alvarado Depáz), Manuel de Jesús Alarcón Morente, and Edmundo or Raymundo Alarcón Morente. *Id.* ¶ 148.

203. *Members of Chichupac Village and Neighboring Communities of the Municipality of Rabinal v. Guatemala, Preliminary Objections, Merits, Reparations and Costs*, ¶ 158.

204. *Id.*

205. *Id.*

206. *Id.*

207. *Id.*

208. *Id.*

209. *Members of Chichupac Village and Neighboring Communities of the Municipality of Rabinal v. Guatemala, Preliminary Objections, Merits, Reparations and Costs*, ¶ 159.

The forced disappearance of a person leaves them in a situation of indeterminate legal status and leaves them unable to exercise their rights.²¹⁰ Here, the forced disappearance of twenty-two victims prevented them from holding or exercising their rights, which violates their rights to Juridical Personality.²¹¹

Additionally, the State cannot claim it did not know of these crimes, as it received several complaints through the Human Rights Ombudsman of Guatemala and the Public Ministry, the CEH Report published in 1999 discussed the crimes committed by the State, and the FAFG submitted several reports pertaining to its investigations and anthropological surveys to the State.²¹² Moreover, the Commission alerted the State of the need to investigate these crimes for seven years, but the State could not prove that it had done anything to investigate and find those responsible for the atrocities.²¹³ Because this lack of investigation was part of the pattern of forced disappearance by the State military during the internal conflict, the Court determined the State refused to recognize it deprived the twenty-two victims of liberty and refused to provide information on the whereabouts of any of the victims.²¹⁴ However, the Court determined that it could not find the State forcibly disappeared the fifty-nine other victims of forced disappearance alleged by the petitioners.²¹⁵

Accordingly, the Court determined the State violated Articles 7 (Right to Personal Liberty), 5(1) (Right to Physical, Mental, and Moral Integrity) and 5(2) (Prohibition of Torture, and Cruel, Inhumane or Degrading Treatment), 4(1) (Prohibition of Arbitrary Deprivation of Life) and 3 (Right to Juridical Personality) in relation to Article 1(1) (Obligation of Non-Discrimination) of the American Convention, and in relation to Article I(a) (Prohibition of Practicing, Tolerating, or Permitting Forced Disappearances) of the Inter-American Commission on The Forced Disappearance of Persons, to the detriment of the twenty-two victims.²¹⁶

Articles 5(1) (Right to Physical, Mental, and Moral Integrity) and 17(1) (Family's Right to Be Protected) in relation to article 1(1) (Obligation of Non-Discrimination) of the American Convention to the

210. *Id.*

211. *Id.* ¶ 159.

212. *Id.* ¶ 152.

213. *Id.*

214. *Id.* ¶¶ 153-154.

215. *Members of Chichupac Village and Neighboring Communities of the Municipality of Rabinal v. Guatemala, Preliminary Objections, Merits, Reparations and Costs*, ¶ 157.

216. *Id.* ¶ 160.

detriment of the next of kin of the twenty-two victims of enforced disappearance²¹⁷ because:

The right to personal integrity establishes both mental and moral protections which the State violated.²¹⁸ As a result of their forced disappearance, the families of the victims suffered from not knowing the fate of their kin.²¹⁹ They felt grief knowing that the state agents would not share information about their whereabouts, meaning their families would be uncertain of their fates.²²⁰

217. *Id.* “Decides” ¶ 11. . The Court identified the following people as victims of this violation: the family of Pedro Siana: Juana Siana Ixtecoc, Olivia Siana Ixtecoc, and Paula Siana Ixtecoc; the family of Juan Pérez Sic: Manuela Toj Perez and Ernesto Perez Toj; the family of Lorenzo Depaz Siprian (or Lorenzo Depaz Ciprian or Florencio Depaz Cipriano): Alejandra Galiego Mendoza, Ricardo Depaz Galiego, Apolonio de Paz Galiego, Odilia de Paz Galiego, and Virgilio de Paz Galiego; the family of Leonardo Cahuec Gonzales: Albertina Sic Cuxúm, Valentina Cahuec Sic, Rolando Cahuec, and María Isabel Cahuec Sic; the family of Juan Mendoza Alvarado: Maria Teresa Sic Osorio, Mario Mendoza Sic, María Asunción Mendoza Sic, Carmela Mendoza Sic, Emilia Mendoza Sic, and Julian Mendoza; the family of José Cruz Mendoza Sucup: Fabustina Alvarado Manuel, Vicenta Mendoza Alvarado, Tomasa Mendoza Alvarado, José Luis Mendoza Alvarado, and Juan Mendoza Alvarado; the family of María Concepción Chen Sic: Rosalina Sic Chen, Reyna Margarita Sic Chen, Petronila Sic Chén, Francisco Sic Chén, Mario Sic Chén, Marcelo Sic Chén, and Pedro Sic Hernandez; the family of Casimiro Siana: Dominga Sucup Cruz, Margarita Siana Crúz, and Oscar Siana Sucup; the family of Cruz Pérez Ampérez: Pedrina Román Xitumul and Maria Guadalupe Ampérez Román; the family of Gorgonio Gonzalez Gonzalez: Enriqueta Tecú, Rosa Gonzalez Tecú, Pedro González Tecú, and Francisca Gonzalez Tecú; the family of Jorge Galeano Román: Anastasia Xitumul Ixpancoc, Carrmela Galeano Xitumul, Galeano Sponsorship Xitumul, Cristina Galeano Xitumul, and Candelaria Xitumul; the family of Eustaquio Ixtecoc Gonzalez (or Eustaquio Yxtecoc Gonzalez): Isabel Reina Bolaj, Victorino Ixtecoc Bolaj, Ángel Augusto Ixtecoc Bolaj, and Miguel Hector Ixtecóc Bolaj; the family of Rafael Depaz Tecú: Francisco Depaz, Matilde Tecú, Balvino Depaz Tecú, and Juan Alfonzo Depaz Tecú; the family of Enrique Mendoza Sis: Leandra Sucup and José Mendoza Sucup; the family of Gabino Román Yvoy (or Iboy or Ivoy): Juana Xitumul López, Pedrina Roman Xitumul, Cármen Román Xitumul, José Manuel Román Xitumul, Enrique Román Xitumul, and Francisco Román Xitumul; the family of Dionicio or Dionisio Vachan or Bachán: Simona Cahuec, Clementina Bachán Cahuec, Tranquilina Bachan Cahuec, Catalina Vachán Depáz, and Diego Bachan Cahuec; the family of Marcelo Sic Chen: Fermína Hernández Mendoza, Pedro Sic Hernández, and Hermelinda Sic Hernández; the family of Adrián García Manuel: Sabina de Paz Pérez, Efraín García de Paz, Hugo García de Paz, Maria Concepción García Depaz, and Juana Garcia Depaz; the family of Hugo García Depaz: Adrián García Manuel and Sabina de Paz Pérez; the family of Abraham Alvarado Tecú (or Agapito Alvarado Depáz): Ángel Alvarado Tecú, Victoria de Paz Pérez, Lucas Alvarado Depaz, Silveria Alvarado Depáz, Paula Alvarado DePáz, and Margarito Alvarado Depáz; the family of Manuel de Jesús Alarcón Morente: Juan Alarcón García, Graciela Morente, Marcelina Alarcón Morente, Clotilde Felipa Alarcón Morente, Jesus Alarcón Morente, Berta Alarcón Morente, and Victoria Alarcón Morente; and the family of Edmundo or Raymundo Alarcón Morente: Faustina Morales Morales, Lupita Alarcón Morales, and Plácido Alarcón Morales. *See* Annex I.

218. *Id.*, ¶ 164.

219. *Id.* ¶ 163.

220. *Id.*

Many of the victims kept close ties with their families, who suffered greatly by knowing of the disappearances.²²¹ In fact, many of the members witnessed detentions first-hand, leading to their conclusion that their families lacked any form of protection.²²² The families of the victims were also unable to properly bury their family members, which, due to their religion, made the victims unable to join their ancestors.²²³ Finally, families were separated or dissolved.²²⁴ All of these violate the family's right to be protected.²²⁵ Accordingly, the Court determined that the State violated Articles 5(1) (Right to Physical, Mental, and Moral Integrity) and 17(1) (Family's Right to be Protected), in relation to Article 1(1) (Obligation of Non-Discrimination) of the American Convention.²²⁶

Article 22(1) (Right to Move Freely Within a State) in relation to Article 1(1) (Obligation of Non-Discrimination) of the American Convention, to the detriment of the victims listed in Annex II of this Judgment²²⁷ because:

Article 22(1) (Right to Move Freely Within a State) protects a person from being forcibly displaced by the State within the State.²²⁸ The Court established that internal displacement is a complex phenomenon that affects a wide range of human rights and puts displaced persons in especially vulnerable and defenseless situation that it constitutes a de facto state of defenselessness.²²⁹ Accordingly, States are obliged to take positive measures reversing these conditions, including taking actions against private third parties.²³⁰ When the State fails to provide these measures, it de facto violates the right to freedom of movement within the State.²³¹ Moreover, when there are displaced populations in a State, it must take measures to ensure the safe return of these persons to their homes or their voluntary resettlement elsewhere in the State.²³² With this,

221. Members of Chichupac Village and Neighboring Communities of the Municipality of Rabinal v. Guatemala, Preliminary Objections, Merits, Reparations and Costs, ¶ 165.

222. *Id.*

223. *Id.*

224. *Id.*

225. *Id.*

226. *Id.* ¶¶ 164, 166.

227. Members of Chichupac Village and Neighboring Communities of the Municipality of Rabinal v. Guatemala, Preliminary Objections, Merits, Reparations and Costs, “Decides” ¶ 12. The Court lists 361 victims of this violation. *See* Annex II.

228. *Id.* ¶ 172.

229. *Id.* ¶ 173.

230. *Id.*

231. *Id.* ¶ 174.

232. *Id.* ¶ 175.

the Court recognized that if the displaced persons are indigenous peoples, removing them from their community and its members causes more destruction because this risks extinction of the ethnicity and loss of traditions.²³³ Therefore, the State must take specific measures, tailed to the indigenous population needing protection, to ensure their way of life is preserved.²³⁴

Here, many of the communities referenced in this case remained empty through March 9, 1987, when Guatemala recognized the jurisdiction of the Court.²³⁵ Due to occupation by State forces and fear of being subject to violations of their rights, many communities remain displaced to this day.²³⁶ Though the State took steps to replace some of the houses in 2008, it never made sufficient attempts to provide opportunities for displaced people to return to their communities.²³⁷ Additionally, it never provided the means to repair or alleviate the impacts of the displacement of the villagers.²³⁸ The lack of ability to return had a particularly large effect on these people because of the importance they placed on community, family, and cultural and religious practices.²³⁹ As such, the State did not guarantee the ability of its people to freely move about the State.²⁴⁰ Accordingly, the Court determined that the State violated Article 22(1) (Right to Move Freely Within a State).²⁴¹

Articles 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) and 25(1) (Right of Recourse Before a Competent Court) in relation to Article 1(1) (Obligation of Non-Discrimination) of the American Convention, as well as Articles 1 (Obligation to Prevent and Punish Torture), 6 (Obligation to Take Effective Measures and Punish Torture and Cruel, Inhuman, and Degrading Treatment) and 8 (Obligation to Investigate and Prosecute) of the Inter-American Convention to Prevent and Punish Torture, Article I(b) (Duty to Punish Forced Disappearances) of the Inter-American Convention on Forced Disappearance of Persons and Article 7(b) (Duty

233. Members of Chichupac Village and Neighboring Communities of the Municipality of Rabinal v. Guatemala, Preliminary Objections, Merits, Reparations and Costs, ¶ 176.

234. *Id.*

235. *Id.* ¶ 178.

236. *Id.* ¶¶ 179-182.

237. *Id.* ¶¶ 185-189.

238. *Id.* ¶ 189.

239. Members of Chichupac Village and Neighboring Communities of the Municipality of Rabinal v. Guatemala, Preliminary Objections, Merits, Reparations and Costs, ¶ 197.

240. *Id.* ¶ 203.

241. *Id.*

to Prevent, Investigate, and Punish Violence) of the Convention of Belém de Pará against Women, to the detriment of the victims of this case or their relatives, in their respective circumstances. Additionally, the State violated the right of the disappeared victim's relatives to know the truth²⁴² because:

Articles 8 (Right to a Fair Trial) and 25 (Right to Judicial Protection) require States to provide effective judicial remedies that comply with the rules of due process.²⁴³ This is also required for determining the truth behind serious human rights violations, which comprises two actions: the State's obligation to investigate State officials and to disclose the results of research and criminal proceedings to the public.²⁴⁴ In cases of systematic violations of rights, the State must conduct the investigation while considering the complexity of the events and, how it affects where people involved are located to ensure all evidence is collected and all research is analyzed thoroughly.²⁴⁵ This obligation is also required by the Inter-American Convention on the Prevention and Punishment of Torture, the Convention of Belém de Pará, and the Inter-American Convention on Forced Disappearance of Persons.²⁴⁶

Accordingly, in this case, the State should have conducted its investigations so there was no serious delay and remove any obstacles impeding the investigation and prosecution of those responsible.²⁴⁷ Moreover, the State had an additional duty to investigate and acts of slavery or forced servitude because it acknowledge facts indicating people were subject to forced labor.²⁴⁸

Though there was some level of investigation put on by State agents, relatives of the victims were often the motivating factor, not the State.²⁴⁹ Many investigations began, but they were remained only partially finished until 2005 when investigation ceased altogether.²⁵⁰ The Court called special attention to a proceeding initiated by relatives of victims,

242. *Id.* "Decides" ¶ 13. . The Court identifies 1,011 victims of this violation. See Annex 1.

243. *Id.* ¶ 211.

244. *Id.* ¶ 212.

245. Members of Chichupac Village and Neighboring Communities of the Municipality of Rabinal v. Guatemala, Preliminary Objections, Merits, Reparations and Costs, ¶ 212.

246. *Id.* ¶ 215.

247. *Id.* ¶¶ 213-214.

248. *Id.* ¶ 216.

249. *Id.* ¶ 219.

250. *Id.* ¶¶ 219-229.

*which was delayed by over a year.*²⁵¹ *Overall, the investigations by the State lacked due diligence, and in at least one instance, were actively hindered by the State.*²⁵²

*The State opened nine cases in relation to events surrounding the massacre on January 8, 1982.*²⁵³ *Of those, seven never took action to determine who was responsible, and many were subject to long delays.*²⁵⁴ *Again, many of the investigations were not effectively executed and did not lead to any particular result.*²⁵⁵ *A theme of delay and incomplete investigation led to the conclusion that the State's investigations lacked due diligence.*²⁵⁶ *Furthermore, this failure to investigate violates the State's obligations as outlined in the Inter-American Convention on the Prevention and Punishment of Torture, the Inter-American Convention on the Forced Disappearance of Persons, and the Convention of Belém de Pará.*²⁵⁷

*The Court noted that the State's National Reconciliation Law provided that amnesty was not granted for crimes of forced disappearance, torture, and genocide.*²⁵⁸ *Although the State argued that the investigation requirement was not necessary in this case because forced disappearance, forced labor, and torture was not defined in State legislation, the Court considered this an attempt to sidestep the State's responsibilities.*²⁵⁹ *Because these acts occurred in a systematic pattern and complex situation, the State could not avoid its obligation to investigate these crimes.*²⁶⁰ *The facts indicate that the State knew of mass crimes against humanity since 1996, and knew since at least 1999 that the crimes were likely racially motivated and constituted acts of genocide.*²⁶¹

251. Members of Chichupac Village and Neighboring Communities of the Municipality of Rabinal v. Guatemala, Preliminary Objections, Merits, Reparations and Costs, ¶ 230.

252. *Id.* ¶ 232.

253. *Id.* ¶ 233.

254. *Id.* ¶¶ 234-235.

255. *Id.* ¶¶ 236-41.

256. *Id.* ¶ 242.

257. Members of Chichupac Village and Neighboring Communities of the Municipality of Rabinal v. Guatemala, Preliminary Objections, Merits, Reparations and Costs, ¶ 244.

258. *Id.* ¶ 245.

259. *Id.* ¶¶ 246-247.

260. *Id.* ¶ 248.

261. *Id.* ¶ 255.

Next, where sexual violence occurs during an armed conflict, it must be considered a primary violation as opposed to a collateral offense.²⁶² Moreover, the investigation must be conducted in a manner that respects the victim's cultural characteristics.²⁶³ the Court determined that the State failed to properly investigate the sexual violations perpetrated by the State.²⁶⁴

Finally, the Court noted that thirty-four years have passed since the Chichupac clinic massacre, and thirty to thirty-five years have passed since the other events in this case occurred.²⁶⁵ As more than twenty years have passed since the inception of the investigations into these crimes, the Court opined that the State has not carried out its investigation within a reasonable time.²⁶⁶ This in turn violates the victims' families' right to know the truth.²⁶⁷

Accordingly, the Court found that the State violated Articles 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) and 25(1) (Right of Recourse Before a Competent Court) of the American Convention, and breached its obligations outlined in Article I(b) (Duty to Punish Forced Disappearances) of the Inter-American Convention on the Forced Disappearance of Persons, Article 7(b) (Duty to Prevent, Investigate, and Punish Violence) of the Convention of Belém de Pará, and Articles 1 (Obligation to Prevent and Punish Torture), 6 (Obligation to Take Effective Measures and Punish Torture and Cruel, Inhuman, and Degrading Treatment) and 8 (Obligation to Investigate and Prosecute) of the Inter-American Convention to Prevent and Punish Torture.²⁶⁸

The Court found unanimously that Guatemala had not violated:²⁶⁹

Article 12 (Freedom of Conscience and Religion) of the American Convention²⁷⁰, because:

262. *Id.* ¶ 256.

263. *Members of Chichupac Village and Neighboring Communities of the Municipality of Rabinal v. Guatemala, Preliminary Objections, Merits, Reparations and Costs*, ¶ 256.

264. *Id.*

265. *Id.* ¶ 259.

266. *Id.*

267. *Id.* ¶ 261.

268. *Id.* ¶ 265.

269. *Members of Chichupac Village and Neighboring Communities of the Municipality of Rabinal v. Guatemala, Preliminary Objections, Merits, Reparations and Costs*, “Decides” ¶¶ 14-16.

270. *Id.* “Decides” ¶ 14.

*This Article falls under the umbrella of the Right to Move Freely Within a State and requires no further analysis.*²⁷¹

Article 16 (Freedom of Association) of the American Convention²⁷², because:

*Chichupac village and communities nearby do not fall under the definition of "association" as termed by Article 16 (Freedom of Association) of the Convention.*²⁷³ *Additionally, the Commission did not state how the communities would have been helped by being recognized under this Article.*²⁷⁴

Article 24 (Right to Equal Protection) of the American Convention²⁷⁵, because:

*Discrimination under Article 24 (Right to Equal Protection) would require the denial of justice to stem from the fact that the victims were Mayan.*²⁷⁶ *The Court does not have sufficient information indicating discrimination to find this violation, nor did the representative or the Commission allege such facts.*²⁷⁷

IV. REPARATIONS

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

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

1. Investigate

The Court ordered the State to remove all *de facto* and *de jure* obstacles preventing the punishment of those responsible in a reasonable time.²⁷⁸ Specifically, the State must: (1) not apply amnesty laws, statutes

271. *Id.* ¶ 204.

272. *Id.* "Decides" ¶ 15.

273. *Id.* ¶ 205.

274. *Id.*

275. Members of Chichupac Village and Neighboring Communities of the Municipality of Rabinal v. Guatemala, Preliminary Objections, Merits, Reparations and Costs, "Decides" ¶ 16.

276. *Id.* ¶ 258.

277. *Id.*

278. *Id.* "Disposes," ¶ 18.

of limitations, or other laws preventing the State from finding those responsible; (2) conduct an investigation respecting and considering the complex background of the systematic and massive violation of rights; (3) determine the identity of those responsible, and; (4) ensure the State's judicial bodies have all necessary resources to quickly carry out the adjudication of these crimes.²⁷⁹ Additionally, the State must provide access to the victims and their families throughout the process.²⁸⁰ The investigation must also have sufficient oversight to ensure adequacy, independence, and impartiality.²⁸¹

2. Locate Disappeared Persons

The State must use its resources to locate the disappeared Chichupac villagers and return their bodies to family members.²⁸² After returning and identifying the remains, the State will also pay for any funeral expenses.²⁸³ The State must maintain communication with the families of the victims and create a framework that ensures their knowledge, presence, and participation.²⁸⁴ Finally, the Court encouraged the State to keep open its People Search Commission, pertaining to victims of forced disappearances, as it is an entity aiding in searching for and identifying victims.²⁸⁵

3. Guarantee the Victims' Return to Their Homes

The Court required the State to implement all measures necessary to guarantee the possibility for forcibly displaced persons to return to their villages under secure conditions if they wish.²⁸⁶ However, the Court indicated it would not supervise the State's compliance with this remedy.²⁸⁷

279. *Id.* ¶ 287.

280. *Id.* ¶ 286.

281. *Members of Chichupac Village and Neighboring Communities of the Municipality of Rabinal v. Guatemala, Preliminary Objections, Merits, Reparations and Costs*, ¶ 285.

282. *Id.* ¶ 292.

283. *Id.* ¶ 295.

284. *Id.* ¶ 296.

285. *Id.* ¶ 297.

286. *Id.* ¶ 298.

287. *Members of Chichupac Village and Neighboring Communities of the Municipality of Rabinal v. Guatemala, Preliminary Objections, Merits, Reparations and Costs*, ¶ 298.

4. Provide Health Care

The Court ordered the State to provide access to free, comprehensive, specialized, and effective medical and psychological treatment for the victims in a manner that is appropriate for their Mayan heritage through the State's medical facilities or through the indigenous peoples' healers, in accordance with their traditional medicines and health practices.²⁸⁸

5. Acknowledge International Responsibility

The State must perform an act of acknowledgment on television or radio within a year of the judgment.²⁸⁹ It must be held in the village of Chichupac and conducted in Spanish and the Mayan language Achí.²⁹⁰ Senior members of the State's government must attend, and the State must confer with the victims and their representative over the particulars of the acknowledgement.²⁹¹ Additionally, the State must cover all the necessary transportation expenses for the victims.²⁹²

6. Publish the Judgment

The Court determined that the judgment constitutes a *per se* reparation.²⁹³ The state must publish a summary of the judgment in the Official Gazette and a nationally circulated newspaper in Spanish and the Mayan language Achí.²⁹⁴ It must also publish the judgment on an official state website for one year.²⁹⁵

7. Provide Human Rights Training to the Military

The State must provide permanent human rights and humanitarian assistance training to all members of the Guatemalan Army.²⁹⁶ The

288. *Id.* ¶¶ 303-304.

289. *Id.* ¶ 306.

290. *Id.*

291. *Id.*

292. *Id.*

293. Members of Chichupac Village and Neighboring Communities of the Municipality of Rabinal v. Guatemala, Preliminary Objections, Merits, Reparations and Costs, "Disposes," ¶ 17.

294. *Id.* ¶ 309.

295. *Id.*

296. *Id.* ¶ 313.

training must focus on eradicating ethnic and racial discrimination and stereotypes and violence against the State's indigenous peoples.²⁹⁷

8. Provide Human Rights Training to Judicial and Public Prosecutors

The State must create training centers for the judicial organ and public prosecutor's office to train them about human rights and international humanitarian law, focusing on stopping violence against indigenous peoples and eradicating ethnic and racial discrimination and stereotypes.²⁹⁸

9. Implement an Educational Program on Non-Discrimination and Multiculturalism

The Court compelled the State to incorporate education programs focusing on diversity and multiculturalism into their National Education System at all educational levels.²⁹⁹ This education should promote knowledge and respect of diverse indigenous cultures, including their languages, knowledge, worldviews, histories, practices and ways of life, values, and cultures.³⁰⁰ The education program must emphasize the eradication of ethnic and racial discrimination and stereotypes and violence against the State's indigenous peoples.³⁰¹

10. Discourage Discrimination

The State must enact public policies and take action to promote knowledge about indigenous cultures in an effort to eradicate racial and ethnic discrimination.³⁰²

B. Compensation

The Court awarded the following amounts:

297. *Id.*

298. *Id.* ¶ 318.

299. *Members of Chichupac Village and Neighboring Communities of the Municipality of Rabinal v. Guatemala, Preliminary Objections, Merits, Reparations and Costs*, ¶ 319.

300. *Id.*

301. *Id.*

302. *Id.* ¶ 320.

1. Pecuniary Damages

The state must pay \$55,000 to the 22 victims of the disappearances for both pecuniary and non-pecuniary damages.³⁰³

2. Non-Pecuniary Damages

The Court required the State to pay \$5,000 to the victims of forced displacement.³⁰⁴ The Court established the following liquidation systems for the damages for forcibly disappeared persons: (1) fifty percent must be divided equally among the victim's living children; (2) fifty percent must be provided to the victim's spouse or permanent partner at the time of the disappearance; (3) if the victim had no children and a spouse or vice versa, that family member or members will receive the entire amount of damages; (4) if the victim had no children and no spouse, the money should be given to the victim's parents, and (5) if the victim has no spouse, children, or parents, the compensation should be provided to the victim's heirs as determined by the State's inheritance law.³⁰⁵

Additionally, the State must pay non-pecuniary damages of \$30,000 to the victims' mothers, fathers, daughters, sons, spouses, and permanent companions and \$10,000 to the victims' sisters and brothers.³⁰⁶

3. Costs and Expenses

The State must pay \$50,000 to the Popular Law Firm Association for incurred expenses.³⁰⁷

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

\$5,665,000³⁰⁸

303. *Id.* ¶¶ 327a; 155; 156; Annex I.

304. *Id.* ¶ 327b; Annex II.

305. Members of Chichupac Village and Neighboring Communities of the Municipality of Rabinal v. Guatemala, Preliminary Objections, Merits, Reparations and Costs, ¶ 328.

306. *Id.* ¶ 327c.

307. *Id.* ¶ 334.

308. 22 victims of forced disappearance times \$55,000 = \$1,210,000; 22; 83 mothers, fathers, daughters, sons, spouses, and permanent companions times \$30,000 = \$2,490,000; 11 brothers and sisters times \$10,000 = \$110,000; 361 displaced persons times \$5,000 = \$1,805,000; \$50,000 to the Popular Law Firm Association. This number is subject to change if more victims are discovered through the course of investigation.

C. Deadlines

The State must remove all obstacles, initiate and continue investigations, and find and punish those responsible within a reasonable time.³⁰⁹

The State must implement and continue all measures necessary to locate the persons forcibly disappeared within a reasonable time.³¹⁰

The State must provide victims medical and psychological care immediately.³¹¹

The State must acknowledge its international responsibility for the mass violations within one year.³¹²

The State must publish the summary of the judgment within six months and the judgment in its entirety within one year.³¹³

The State must implement its human rights training for the Army, Judicial, and Public Prosecutor's office within one year.³¹⁴

The State must implement an educational program focusing on non-discrimination within a reasonable time.³¹⁵

The State has two years from the notification of the judgment to pay compensation to the victims: fifty percent within a year of the judgment, and the remaining within the year after.³¹⁶ The recipients of the costs and expenses must have them within one year of the notification of judgment.³¹⁷

The State must submit a compliance monitoring report within one year of the judgment.³¹⁸

V. INTERPRETATION AND REVISION OF JUDGMENT

[None]

VI. COMPLIANCE AND FOLLOW-UP

309. *Id.* "Decides," ¶ 18.

310. *Id.* "Decides," ¶ 19.

311. *Id.* ¶ 304.

312. *Members of Chichupac Village and Neighboring Communities of the Municipality of Rabinal v. Guatemala, Preliminary Objections, Merits, Reparations and Costs*, ¶ 396.

313. *Id.* ¶ 309.

314. *Id.* ¶¶ 313; 318.

315. *Id.* ¶ 319.

316. *Id.* ¶ 335.

317. *Id.* ¶ 336.

318. *Members of Chichupac Village and Neighboring Communities of the Municipality of Rabinal v. Guatemala, Preliminary Objections, Merits, Reparations and Costs*, "Disposes," ¶ 28.

February 5, 2018: The representatives provided information verifying the identity of additional victims.³¹⁹ The Court added 23 victims to Annex 1 and 51 victims of forced displacement.³²⁰

November 21, 2018: The Court determined that the State fully complied with its obligation to pay costs and expenses to the Popular Law Firm Association.³²¹

VII. LIST OF DOCUMENTS

A. *Inter-American Court*

1. Preliminary Objections

[Members of Chichupac Village and Neighboring Communities of the Municipality of Rabinal v. Guatemala, Preliminary Objections, Merits, Reparations and Costs, Inter-Am. Ct. H.R. \(ser. C\) No. 328 \(Nov. 30, 2016\). \(Available only in Spanish\).](#)

2. Decisions on Merits, Reparations and Costs

[None]

3. Provisional Measures

[None]

4. Compliance Monitoring

[Members of Chichupac Village and Neighboring Communities of the Municipality of Rabinal v. Guatemala, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. \(Feb. 5, 2018\).](#)

[Members of Chichupac Village and Neighboring Communities of the Municipality of Rabinal v. Guatemala, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. \(Nov. 21, 2018\).](#)

319. *Members of Chichupac Village and Neighboring Communities of the Municipality of Rabinal v. Guatemala, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. "Considering That,"* ¶ 10 (Feb. 5, 2018).

320. *Id.* "Resolves" ¶¶ 1,2.

321. *Members of Chichupac Village and Neighboring Communities of the Municipality of Rabinal v. Guatemala, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R., "Considering That,"* 5 (Nov. 21, 2018).

5. Review and Interpretation of Judgment

[None]

B. Inter-American Commission

1. Petition to the Commission

[Not Available]

2. Report on Admissibility

[Members of Chichupac Village and Neighboring Communities of the Municipality of Rabinal v. Guatemala, Admissibility Report, Report No. 31/99, Inter-Am. Comm'n H.R., Case No. 11.763 \(Mar. 11, 1999\).](#)

3. Provisional Measures

[Members of Chichupac Village and Neighboring Communities of the Municipality of Rabinal v. Guatemala, Provisional Measures, Order of the President of the Court, Inter-Am. Ct. H.R. \(ser. E\) \(Mar. 28, 2016\).](#)

4. Report on Merits

[Members of Chichupac Village and Neighboring Communities of the Municipality of Rabinal v. Guatemala, Report on Merits, Report No. 6/14, Inter-Am. Comm'n H.R., Case No. 12,788 \(Apr. 2, 2014\).](#)

5. Application to the Court

[Members of Chichupac Village and Neighboring Communities of the Municipality of Rabinal v. Guatemala, Petition to the Court, Inter-Am. Comm'n H.R., Case No. 12.788 \(Aug 5, 2014\).](#)

VIII. BIBLIOGRAPHY

[None]