

Plan de Sánchez Massacre v. Guatemala

ABSTRACT¹

On July 18, 1982, members of the Guatemalan Army and civil collaborators massacred 268 persons, most of them members of the indigenous Mayan people at the village of Plan de Sánchez. The State's violations of the American Convention on Human Rights include the denial of justice and other acts of intimidation and discrimination to the detriment of the survivors and the next of kin of the victims of the massacre. This case also deals with a situation of impunity regarding the massacre, which was allegedly carried out within the framework of a genocidal policy of the Guatemalan State with the intention of totally or partially destroying the Mayan indigenous people. Although Guatemala accepted full responsibility for the events, the Court still heard the case and ruled on the violations.

I. FACTS

A. Chronology of Events

March 23, 1982: The Guatemalan Military overthrows the existing Guatemalan government and establishes a Military Junta, led by José Efraín Ríos Montt.²

April 1982: The new government develops a counterinsurgency program (“the Doctrine of National Security”) and attempts to control the population through State-perpetrated acts of terror, which include scorched earth operations.³ The State implements Victory Eighty-Two, a military campaign that aims to displace or destroy portions of the

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

2. Plan de Sánchez Massacre v. Guatemala, Merits, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 105, ¶ 42(3) (Apr. 29, 2004).

3. *Id.* ¶¶ 42(2), 42(6).

population, including the Mayan people, which the government identifies as insurgents or guerilla sympathizers.⁴ As part of the counterinsurgency plan, the government establishes armed civilian paramilitary groups known as Civil Defense Patrols (*Patrullas de Autodefensa Civil*; "PACs").⁵ Citizens are required to participate; refusal to do so is punishable by death.⁶

Early 1982: The Guatemalan army amasses in the central region of Guatemala, where the village of Plan de Sánchez is located.⁷ The Government suspects that the indigenous Mayan people of the Plan de Sánchez village⁸ are insurgents or insurgent supporters because they refuse to join the PACs.⁹ As a result, soldiers and PAC members frequently question local residents about the whereabouts of male community members and threaten to harm them.¹⁰ To escape harassment, many men leave the village and hide from the military.¹¹ Residents file complaints of military harassment with the Justice of the Peace of Rabinal.¹² The complaints are disregarded; residents who file them are fined.¹³

July 1982: A plane flies over the Plan de Sánchez Village and drops bombs on inhabited areas.¹⁴

July 15, 1982: Members of the military camp enter the village.¹⁵ They inspect homes and question residents about the whereabouts of male community members.¹⁶

July 18, 1982: Residents of local villages, including Chipuerta, Joya de Ramos, Raxjut, Volcanillo, Coxojabaj, Las Tunas, Las Minas, Las Ventanas, Ixchel, Chiac, Concul and Chichupac,¹⁷ travel through Plan

4. *Id.* ¶¶ 42(4), 42(5).

5. *Id.* ¶ 42(12), n.7.

6. *Id.* ¶ 42(12).

7. *Id.* ¶¶ 42(9), 42(11).

8. *Id.* ¶ 42(12).

9. *Id.* ¶ 42(12), n.7.

10. *Id.* ¶ 42(11).

11. *Id.* ¶ 42(12).

12. *Id.* ¶ 42(13).

13. *Id.*

14. *Id.* ¶ 42(14).

15. *Id.*

16. *Id.*

17. *Id.* ¶ 42(21).

de Sánchez to attend market day in Rabinal, which is one of the busiest commercial and religious days in the municipality.¹⁸

At around 8:00 am, the military launches two grenades into the village.¹⁹ One lands to the east and one lands to the west of the village.²⁰

Between 2:00 p.m. and 3:00 p.m., approximately sixty members of the army, *judiciales*, military commissioners, patrol members and paramilitaries (collectively “soldiers”) arrive in the village.²¹ Among the ranks are Francisco Orrego, Carlos Orrego, Santos Rosales, Captain Solares and Lieutenant Díaz.²² Soldiers surround the village and force residents from their homes.²³ Soldiers are also posted at entryways to the village to stop residents returning from market.²⁴ The village men hide, believing that the military will not attack the remaining women and children.²⁵

Soldiers separate the girls and young women from the older women, boys, and men.²⁶ Approximately twenty women and girls ages twelve to twenty-years old are forced into a home where the soldiers rape, torture, and murder them.²⁷ Soldiers separate the remaining children from the rest of the community and beat them to death.²⁸ Soldiers torture the elderly.²⁹

The survivors are forced into another home.³⁰ At 5:00 p.m., soldiers throw grenades and shoot indiscriminately into the house.³¹ The firing continues until 8:00 p.m., when soldiers light the home and the bodies of the victims on fire.³² At approximately 11:00 p.m., the military leaves the village of Plan de Sánchez.³³

At day’s end, approximately 268 people are dead.³⁴

18. *Id.* ¶ 42(15).

19. *Id.* ¶ 42(16).

20. *Id.*

21. *Id.* ¶ 42(17).

22. *Id.* The Merits decision does not include Capitan Solares or Lieutenant Díaz’s full names. *Id.*

23. *Id.*

24. *Id.*

25. *Id.*

26. *Id.* ¶ 42(18).

27. *Id.*; Plan de Sánchez Massacre v. Guatemala, Reparations, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 116, ¶ 13 (Nov. 19, 2004).

28. Plan de Sánchez Massacre v. Guatemala, Merits, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 105, ¶ 42(18) (Apr. 29, 2004).

29. Plan de Sánchez Massacre v. Guatemala, Reparations, ¶ 32(a).

30. Plan de Sánchez Massacre v. Guatemala, Merits, ¶ 42(19).

31. *Id.*

32. *Id.* ¶ 42(20).

33. *Id.*

34. *Id.* ¶ 42(21).

July 19, 1982: Residents who escape or were not caught in the Plan de Sánchez massacre return to the village.³⁵ The home where the soldiers murdered the villagers is still smoldering.³⁶ Survivors discover the bodies of their friends, family members, and neighbors charred beyond recognition.³⁷ Burned bodies, covered in bullet wounds, fill the yard.³⁸ Wild animals eat what remains of the dead.³⁹

Soldiers return to the village between 3:00 and 4:00 pm.⁴⁰ They order survivors to bury the dead and threaten to bomb the village if the survivors do not complete the burial within an hour.⁴¹ Most of the corpses are buried where they lie, but some villagers from Concul take their relatives' bodies to bury them in the village cemetery.⁴²

The soldiers return several times to loot and destroy villagers' homes.⁴³ They steal animals, food, marriage certificates, identification documents and land titles, as well as other personal items.⁴⁴ The villagers are terrified that the soldiers will return and murder them as well, so they take turns keeping watch over the entrances to the village.⁴⁵

In the months following the massacre, survivors leave the village out of fear that the military will return and murder them.⁴⁶ Many hide in the mountains without food or clothing.⁴⁷ Soldiers search for the villagers in the mountains.⁴⁸ Many, especially children and the elderly, become sick and die.⁴⁹

1987: Approximately twenty families return to the village.⁵⁰ The local military commissioner tells villagers that if they do not remain silent about the massacre, they will be killed.⁵¹ The commissioner forces male

35. *Id.* ¶ 42(22).

36. *Id.*

37. *Id.*

38. *Id.*

39. *Id.*

40. *Id.* ¶ 42(23).

41. *Id.*

42. *Id.*

43. *Id.* ¶ 42(24).

44. *Id.*

45. *Id.*

46. *Id.* ¶ 42(25).

47. *Id.*

48. *Id.*

49. *Id.*

50. *Id.* ¶ 42(28).

51. *Id.*

villagers to join PACs until 1996, when the State legally disbands all PACs.⁵²

December 10, 1992: Survivors report the massacre and the mass graves to the authorities.⁵³ In response, local officials threaten and harass them.⁵⁴

May 7, 1993: The Human Rights Ombudsman files a petition with the Public Prosecutor's Office regarding the massacre.⁵⁵

August 12, 1993: A pastor of the Diocese of Verapaz reports the location of the mass grave to the Human Rights Ombudsman.⁵⁶ The Trial Court of Salamá, Baja Verapaz and the Public Prosecutor's Office open a case regarding the massacre.⁵⁷

June 6, 1994: The Guatemalan Forensic Anthropology Team (*Fundación de Antropología Forense de Guatemala*; "EAFG") begins exhuming the bodies buried in the village.⁵⁸ They discover twenty-one mass graves and recover bones from eighty-four different people.⁵⁹ The EAFG discovers another mass grave that was not mentioned in the original petition to the Ombudsman.⁶⁰ The grave is located about one kilometer from the other mass graves and is referred to as Mass Grave No. Twenty-Two.⁶¹

Following the exhumations, villagers bury their family and community members in accordance with Mayan ceremonies and traditions.⁶²

August 10, 1994: The Human Rights Ombudsman's Office asks the Public Prosecutor's Office to authorize EAFG to exhume bodies from Mass Grave No. Twenty-Two.⁶³

52. *Id.*

53. *Id.* ¶ 42(29).

54. *Id.* ¶¶ 42(29), 42(31).

55. *Id.* ¶ 42(31).

56. *Id.*

57. *Id.* ¶ 42(32).

58. *Id.* ¶ 42(33).

59. *Id.*

60. *Id.* ¶ 42(34).

61. *Id.*

62. *Id.* ¶ 42(30).

63. *Id.* ¶ 42(35).

August 12, 1994: The Public Prosecutor's Office requests that Trial Court of Salamá, Baja Verapaz allow EAFG to exhume bodies from Mass Grave No. Twenty-Two.⁶⁴ The judge from the Trial Court of Salamá, Baja Verapaz states that the Public Prosecutor's Office should authorize this act, as it is a new fact that pertains to the case.⁶⁵

August 25, 1994: The Human Rights Ombudsman again requests that the Public Prosecutor's Office authorize EAFG to investigate Mass Grave No. Twenty-Two.⁶⁶ The request is resubmitted on September 30, 1994; July 28, 1995; and February 27, 1996.⁶⁷

May 3, 1996: The Public Prosecutor's Office finally asks the Trial Court of Salamá, Baja Verapaz to order the exhumation of Mass Grave No. Twenty-Two.⁶⁸

May 6, 1996: The Salamá, Baja Verapaz Trial Court Judge orders the EAFG to begin work on Mass Grave No. Twenty-Two.⁶⁹

August 14, 1996: The EAFG begins investigating Mass Grave No. Twenty-Two.⁷⁰

August 16, 1996: The EAFG concludes its archaeological examination of the grave.⁷¹ During the investigation it exhumes four skeletons.⁷² The EAFG submits its report to the Public Prosecutor's Office on December 22, 1997.⁷³

September 2, 1996: The Human Rights Ombudsman's Office issues a report that explicitly states that the massacre was part of a premeditated State policy.⁷⁴ The report finds State-sponsored paramilitaries, military commissioners, members of the army, and high-ranking officers did not protect the local population and attempted to conceal the massacre to

64. *Id.*

65. *Id.*

66. *Id.*

67. *Id.*

68. *Id.*

69. *Id.*

70. *Id.* ¶ 42(36).

71. *Id.*

72. *Id.*

73. *Id.*

74. *Id.*

ensure that the perpetrators were not brought to justice.⁷⁵

1996: The Guatemalan government and insurgent leaders complete a peace agreement, ending the Guatemalan civil conflict.⁷⁶

February 13, 1997: Survivors of the Plan de Sánchez massacre request that the Trial Court of Baja Verapaz include them as additional complainants in the criminal proceedings initiated by the Human Rights Ombudsman.⁷⁷ They request that the military disclose evidence pertaining to the massacre, including the names of the supervising officers involved in the massacre, ballistic analysis on the materials found on the exhumed bodies, and the EAFG's forensic anthropological reports.⁷⁸ Portions of the investigation are transferred to a Criminal Trial Court in Cobán.⁷⁹

February 25, 1997: The Criminal Trial Court Judge of Baja Verapaz grants the survivors' requests.⁸⁰

August 28, 1997: After repeated requests from complainants, the Cobán Trial Court Judge orders the Prosecutor's Office to conduct expert ballistic analyses.⁸¹ The complainants request information about the ballistic analyses again on November 24, 1997, and the Cobán Trial Court Judge requests this information from the Trial Court of Baja Verapaz the following day.⁸² The Public Prosecutor's Office does not submit the ballistic reports until March 7, 2000.⁸³

The Cobán Trial Court Judge requests that the National Defense Ministry supply the names and rank of the soldiers and commanders on duty in Rabinal on the day of the massacre.⁸⁴

November 24, 1997: The Cobán Trial Court Judge also requests that the National Defense Ministry supply information pertaining to military

75. *Id.* ¶ 42(37).

76. *Id.* ¶ 42(8).

77. *Id.* ¶ 42(38).

78. *Id.*

79. *Id.* ¶ 42(39).

80. *Id.* ¶ 42(38).

81. *Id.* ¶ 42(39).

82. *Id.*

83. *Id.* ¶ 42(40).

84. *Id.* ¶ 42(43).

leadership at the time of the massacre.⁸⁵ Petitioners request evidence from the National Defense Ministry again on January 21 and May 12, 2000.⁸⁶

April 29, 2004: At the time of the Court's Judgment, the National Defense Ministry has yet to reply to the request.⁸⁷ Not a single person has testified on behalf of the State and the criminal proceedings have not been resolved.⁸⁸

B. Other Relevant Facts

In 1954, the United States sponsors the overthrow of Guatemala's democratic government.⁸⁹ Following the coup d'état, freedom of expression is squashed, low-income Guatemalans lose their land, and the State runs fraudulent elections.⁹⁰ Corruption plagues the government,⁹¹ and, in response to widespread dissatisfaction, the military suppresses labor organizing and exiles political demonstrators.⁹² Decades of domestic conflict ensue.⁹³

In 1982, a military junta takes power.⁹⁴ Guatemalan leaders target communities in the Quiché, Huehuetenago, Chimaltenango, Alta and Baja Verapaz regions, as well as the South Coast of Guatemala and Guatemala City.⁹⁵ Many of the people targeted belong to indigenous groups.⁹⁶ During this time, the State perpetrates approximately 626 massacres.⁹⁷

Between 1990 and 1996, the Government of Guatemala and a Guatemalan insurgent group, *Unidad Revolucionaria Nacional de Guatemala* (Guatemala National Revolutionary Unity; "URNG") entered into Peace Agreements.⁹⁸ One such peace agreement established

85. *Id.* ¶ 42(44).

86. *Id.* ¶ 42(45).

87. *Id.* ¶ 42(46).

88. *Id.*

89. STEPHEN KINZER & STEPHEN SCHLESINGER, BITTER FRUIT: THE STORY OF THE AMERICAN COUP IN GUATEMALA iv (1999).

90. *Id.* at 233.

91. *Id.* at 234.

92. *Id.* at 235.

93. Plan de Sánchez Massacre v. Guatemala, Merits, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 105, ¶ 42(1) (Apr. 29, 2004).

94. *Id.* ¶ 42(3).

95. *Id.* ¶ 42(5).

96. *Id.*

97. *Id.* ¶ 42(6).

98. *Id.* ¶ 42(8).

the Historical Elucidation Committee, which investigates human rights violations during the conflict.⁹⁹

II. PROCEDURAL HISTORY

A. Before the Commission

October 25, 1996: The Center for Human Rights Legal Action (*Centro para la Acción Legal en Derechos Humanos*, “CALDH”) files Petition No. 11.763 with the Inter-American Commission.¹⁰⁰

July 1, 1997: The Commission opens Case No. 11.763.¹⁰¹

March 11, 1999: The Commission adopts Admissibility Report No. 31/99.¹⁰²

March 19, 1999: The Commission sends Admissibility Report No. 31/99 to the parties and invites them to begin the friendly settlement process.¹⁰³

August 9, 2000: Alfonso Portillo, the President of Guatemala at the time, acknowledges the State’s international responsibility for the massacre.¹⁰⁴

February 28, 2002: The Commission adopts Merits Report No. 25/02.¹⁰⁵ The Commission recommends that the State effectively investigate the massacre; identify and punish perpetrators and masterminds; and identify victims of the massacre.¹⁰⁶ In addition, the Commission recommends that the State make reparations to the survivors and the deceased’s next of kin, and adopt measures to prevent similar human rights abuses from occurring.¹⁰⁷

99. *Id.*

100. *Id.* ¶¶ 1, 5.

101. *Id.* ¶ 5.

102. *Id.* ¶ 6; Plan de Sánchez Massacre v. Guatemala, Admissibility Report, Report No. 31/99, Inter-Am. Comm’n H.R., Case No. 11.763 (Mar. 11, 1999).

103. Plan de Sánchez Massacre v. Guatemala, Merits, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 105, ¶ 7 (Apr. 29, 2004).

104. *Id.* ¶¶ 8, 46.

105. *Id.* ¶ 9. The Commission’s Report on the Merits was not available at the time of publication, and the Merits Judgment did not indicate the violations found by the Commission.

106. *Id.*

107. *Id.*

July 1, 2002: The State informs the Commission that it believes it has complied with the Commission's recommendations.¹⁰⁸

B. Before the Court

July 31, 2002: The Commission submits the case to the Court after the State failed to adopt its recommendations.¹⁰⁹

March 1, 2004: The State appoints Alejandro Sánchez Garrido as judge *ad hoc*.¹¹⁰

1. Violations Alleged by Commission¹¹¹

Article 5 (Right to Humane Treatment)

Article 8 (Right to a Fair Trial)

Article 12 (Freedom of Conscience and Religion)

Article 21 (Right to Property)

Article 24 (Right to Equal Protection)

Article 25 (Right to Judicial Protection)

all in relation to:

Article 1(1) (Obligation to Respect Rights) of the American Convention.

2. Violations Alleged by Representatives of the Victims¹¹²

Same Violations Alleged by Commission, plus:

Article 4 (Right to Life)

108. *Id.* ¶ 11.

109. *Id.* ¶ 1.

110. *Id.* ¶ 25.

111. *Id.* ¶ 2. The Commission alleged that the massacre was carried out "within the framework of a genocidal policy of the Guatemalan State carried out with the intention of totally or partially destroying the Mayan indigenous people."

112. Plan de Sánchez Massacre v. Guatemala, Admissibility Report, Report No. 31/99, Inter-Am. Comm'n H.R., Case No. 11.763, ¶ 17 (Mar. 11, 1999). Lucy Turner and Juan Pablo Pons, of the Center for Legal Action on Human Rights (*Centro para la Acción Legal en Derechos Humanos*; "CALDH"), served as representatives of the victims. Plan de Sánchez Massacre v. Guatemala, Merits, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 105, ¶ 23 (Apr. 29, 2004).

Article 7 (Right to Personal Liberty)
Article 13 (Freedom of Thought and Expression)
Article 19 (Rights of the Child) of the American Convention.

April 21, 2004: The Institute for Comparative Studies of Criminal Science of Guatemala (*Instituto de Estudios Comparados de Ciencias Penales en Guatemala*; “ICCPG”), the Center for Studies of Justice and Participation (*Centro de Estudios Sobre Justicia y Participación*; “CEJIP”) and the Institute for Comparative Studies in Criminal and Social Science (*Instituto de Estudios Comparados en Ciencias Penales y Sociales*; “INECIP”) submit an *amicus curiae* brief to the Court.¹¹³

III. MERITS

A. Composition of the Court

Sergio García Ramírez, President
Alirio Abreu Burelli, Vice-President
Oliver H. Jackman, Judge
Antônio Augusto Cançado Trindade, Judge
Cecilia Medina Quiroga, Judge
Manuel E. Ventura Robles, Judge
Diego García-Sayán, Judge
Alejandro Sánchez Garrido, Judge *ad hoc*

Pablo Saavedra Alessandri, Secretary

B. Decision on the Merits

April 29, 2004: The Court issues its Judgment on the Merits.¹¹⁴

The Court found unanimously that Guatemala had violated:

Articles 5(1) (Right to Physical, Mental, and Moral Integrity), 5(2) (Prohibition of Torture, and Cruel, Inhuman or Degrading Treatment), 8(1) (Right to a Hearing Within Reasonable Time by Competent and Independent Tribunal), 11 (Right to Privacy), 12(2) (Prohibition of Restrictions Impairing Freedom of Conscience and Religion), 12(3)

113. *Id.* ¶ 28.

114. Plan de Sánchez Massacre v. Guatemala, Merits, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 10 (Apr. 29, 2004).

(Exceptions to Freedom to Manifest One's Religion or Beliefs), 13(2)(a) (Prohibition of A Priori Censorship), 13(5) (Prohibition of Propaganda for War and Advocacy of National, Racial, or Religious Hatred), 16(1) (Freedom of Association for Any Purpose), 21(1) (Right to Use and Enjoyment of Property), 21(2) (Right to Compensation in Case of Expropriation), 24 (Right to Equal Protection), and 25 (Right to Judicial Protection), in relation to Article 1(1) (Obligation to Respect Rights), to the detriment of the victims, their next of kin, and all survivors,¹¹⁵ because:

*The State accepted the facts and acknowledged international responsibility.*¹¹⁶ *The Court found that it could not address the issue of genocide, as it only has jurisdiction over violations of the American Convention and other instruments of the Inter-American system, which do not mention genocide.*¹¹⁷ *The Court held, however, that it would examine the pattern of State perpetuated-massacres against the Mayan people and its impact on Mayan culture when determining reparations.*¹¹⁸

C. Dissenting and Concurring Opinions

1. Separate Opinion of Judge Sergio García Ramírez

In a separate opinion, Judge García Ramírez recognized that the Court's Rules of Procedure allow for the early termination of the adjudication process when the respondent accepts fault.¹¹⁹ Nevertheless, a State's acceptance of responsibility does not prevent the Court from hearing the case if proceeding is in the interest of human rights.¹²⁰ Judge García Ramírez stated that the State's acceptance of international responsibility should not prevent the Court from examining the evidence to determine whether the State violated specific articles in the American Convention.¹²¹ He observed that the Court's analysis is necessary to set precedent for future cases that protect human rights, to demonstrate that particular acts are unacceptable, and to appropriately

115. *Id.* "Decides" ¶ 3.

116. *Id.* ¶¶ 46, 47.

117. *Id.* ¶ 51.

118. *Id.*

119. *Plan de Sánchez Massacre v. Guatemala, Merits, Separate Concurring Opinion of Judge Sergio García Ramírez, Inter-Am. Ct. H.R. (ser. C) No. 105, ¶ 3 (Apr. 29, 2004).*

120. *Id.* ¶ 4.

121. *Id.* ¶¶ 4, 14.

determine reparations.¹²² The Court may use other international law, such as the 1948 Convention on the Prevention and Punishment of the Crime of Genocide and Court precedent to interpret provisions of the American Convention when assessing allegations of genocide.¹²³

2. Separate Opinion of Judge Antônio Augusto Cançado Trindade

In a separate opinion, Judge Cançado Trindade emphasized the allegations of genocide of the Mayan people.¹²⁴ He explained that the State had not responded to allegations of genocide because the American Convention does not prohibit genocide.¹²⁵ Regardless, Judge Cançado Trindade found that the facts of this case clearly demonstrate that the State perpetrated acts of genocide.¹²⁶ Furthermore, Judge Cançado Trindade stated that the State's failure to take responsibility for perpetrating the genocide undermines international law as a whole, and subverts the international protection of human rights to state sovereignty.¹²⁷

Though the Court does not have jurisdiction over violations of the Convention on the Prevention and Punishment of the Crime of Genocide,¹²⁸ Judge Cançado Trindade nonetheless expressed that Guatemala should still accept international responsibility for its acts of genocide against the Mayan people.¹²⁹ The State ratified the Convention on the Prevention and Punishment of the Crime of Genocide and the Geneva Conventions of 1949, both of which prohibit acts of genocide and require respect for all peoples' religious, cultural and spiritual heritage.¹³⁰

Additionally, Judge Cançado Trindade asserted that the Court is not precluded from examining acts of genocide as "aggravating circumstances" surrounding violations of the American Convention.¹³¹ The text of the American Convention recognizes global principles of international law, and the Court should consider these principles when

122. *Id.* ¶¶ 4, 5, 15.

123. *Id.* ¶¶ 17-19.

124. *Plan de Sánchez Massacre v. Guatemala, Merits, Separate Opinion of Judge Antônio Augusto Cançado Trindade, Inter-Am. Ct. H.R. (ser. C) No. 105, ¶¶ 2, 3 (Apr. 29, 2004).*

125. *Id.* ¶ 4.

126. *Id.* ¶ 34.

127. *Id.* ¶¶ 34, 36.

128. *Id.* ¶ 6.

129. *Id.* ¶ 8.

130. *Id.*

131. *Id.* ¶ 24.

analyzing violations of the American Convention.¹³² More importantly, common reverence for humanity (universal juridical conscience) and *jus cogens* require courts to condemn genocide, irrespective of specific laws.¹³³

Judge Cançado Trindade also observed that international human rights courts, including the Court itself, have either focused on States' or individuals' culpability for human rights violations, but rarely both.¹³⁴ Judge Cançado Trindade, however, stressed that the international criminal responsibility of the State does not diminish the responsibility of the individual,¹³⁵ and that courts must recognize both forms of responsibility to eliminate impunity.¹³⁶

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, Identify, and Punish Those Responsible for the Massacre

The Court ordered the State to carry out a comprehensive investigation of the massacre, to identify the perpetrators and masterminds, and to punish those responsible.¹³⁷ The State must publicize any findings of the proceedings and may not grant amnesty or employ other measures to shield those responsible from criminal liability.¹³⁸

2. Publicly Acknowledge Responsibility for the Massacre

132. *Id.* ¶¶ 27, 28.

133. *Id.* ¶¶ 13, 14, 16.

134. *Id.* ¶ 38.

135. *Id.* ¶ 39.

136. *Id.*

137. *Plan de Sánchez Massacre v. Guatemala, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. "Having Seen" ¶ 3 (Feb. 21, 2011); Plan de Sánchez Massacre v. Guatemala, Reparations, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 116, ¶¶ 98, 99 (Nov. 19, 2004).*

138. *Plan de Sánchez Massacre v. Guatemala, Reparations, Judgment, ¶¶ 98, 99.*

The Court ordered the State to publish the “Proven Facts” section and other operative paragraphs of the Judgment in Guatemala’s Official Gazette and in one other daily newspaper with broad national circulation in both Spanish and Maya-Achí.¹³⁹

The Court also ordered the State to organize a public ceremony to acknowledge responsibility for the massacre, honor the dead, and make reparations to the victims.¹⁴⁰ The ceremony must be held in the Plan de Sánchez village, carried out in Spanish and Maya-Achí, and publicized in the media.¹⁴¹ Senior State authorities and leaders of the surrounding villages must participate in the act.¹⁴²

3. Publish the American Convention

The Court ordered the State to publish the text of the American Convention in Maya-Achí in the Municipality of Rabinal.¹⁴³ The State must also give victims a copy of the text of the American Convention in Maya-Achí.¹⁴⁴

4. Provide Services to the Victims

The Court ordered the State to provide medical care, psychological treatment, and adequate housing to survivors who need it.¹⁴⁵

Improve Rabinal, Plan de Sánchez, Joya de Ramos, Raxjut, Volcanillo, Coxojabaj, Las Tunas, Las Minas, Las Ventanas, Ixchel, Chiac, Concul and Chichupac

The Court ordered the State to provide funds to improve the chapel where survivors honor the victims murdered during the massacre.¹⁴⁶ The State must create programs to teach the Maya-Achí language and culture and provide educators who are trained in bilingual and intercultural education.¹⁴⁷ Additionally, the State must develop

139. Plan de Sánchez Massacre v. Guatemala, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. “Having Seen” ¶ 3 (Feb. 21, 2011); Plan de Sánchez Massacre v. Guatemala, Reparations, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 116, “And Orders” ¶ 5 (Nov. 19, 2004).

140. *Id.* “And Orders” ¶¶ 2, 3.

141. *Id.* “And Orders” ¶ 2.

142. *Id.*

143. Plan de Sánchez Massacre v. Guatemala, Monitoring Compliance with Judgment, Order of the Court, “Having Seen” ¶ 3.

144. *Id.*

145. *Id.*

146. *Id.*

147. *Id.*

programs to improve and maintain the roads between Rabinal and the surrounding communities, and provide an adequate sewage system and drinkable water.¹⁴⁸

B. Compensation

The Court awarded the following amounts:

1. Pecuniary Damages

The Court awarded \$5,000 in pecuniary damages to each of the victims¹⁴⁹ because the State-perpetrated violence prevented victims from working, farming, and retaining their land, which effectively institutionalized indigenous poverty.¹⁵⁰

The Court also awarded \$5,000 to each victim that soldiers stole identification documents from and who has not received an identification document from the State.¹⁵¹

2. Non-Pecuniary Damages

The Court ordered the State to pay \$20,000 to each surviving victim for the occupation of Plan de Sánchez and the States' attempts to eradicate Mayan culture.¹⁵² The Court explained that survivors' inability to bury the dead in accordance with Mayan ceremonies, the murder of women and elders who safeguarded Mayan oral history and traditions, and the State military's prohibition of any expression of Mayan culture caused a "cultural vacuum."¹⁵³ The Court also recognized that the State's occupation of the village and failure to recognize, investigate, or protect the survivors harmed these survivors' physical and mental health.¹⁵⁴

148. *Id.*; Plan de Sánchez Massacre v. Guatemala, Reparations, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 116, "And Orders" ¶ 9 (Nov. 19, 2004).

149. Plan de Sánchez Massacre v. Guatemala, Reparations, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 116, ¶¶ 74-75(b). The Court named thirty-three surviving victims from the Plan de Sánchez community, and ninety-one from other communities. The total amount awarded was \$620,000.

150. *Id.* ¶ 73.

151. *Id.* ¶ 76. The Court named twelve surviving victims from the Plan de Sánchez community, and 181 from other communities. The total amount awarded was \$965,000.

152. *Id.* ¶ 88. The Court named thirty-three surviving victims from the Plan de Sánchez community, and 181 from other communities. The total amount awarded was \$2,480,000.

153. *Id.* ¶ 87(b).

154. *Id.* ¶¶ 87(c)-(g).

In addition, the Court ordered the State to pay \$20,000 to the survivors who had not received identification documents from the State.¹⁵⁵

3. Costs and Expenses

The Court awarded \$55,000 to CALDH for litigation expenses.¹⁵⁶

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

\$7,980,000

C. Deadlines

The Court ordered that all damages must be paid within one year of the Reparations Judgment.¹⁵⁷ Medical and psychological services must be provided for five years, and improvements in local infrastructure and education must be provided within five years.¹⁵⁸

V. INTERPRETATION AND REVISION OF JUDGMENT

[None]

VI. COMPLIANCE AND FOLLOW-UP

November 25, 2006: In response to threats against victims, the Court issued Provisional Measures, in which it ordered the State to protect the victims from physical harm or death and investigate incidents of violence and intimidation against the victims.¹⁵⁹ The State must confer with the victims and their representatives during the implementation of these orders.¹⁶⁰ Additionally, the Court requested that the State provide it with a report due on October 30, 2006, and continue to supply the Court with bi-monthly reports.¹⁶¹

155. *Id.* ¶ 89. The Court named twelve surviving victims from the Plan de Sánchez community, and 181 from other communities. The total amount awarded was \$3,860,000.

156. *Id.* ¶ 116.

157. *Id.* ¶¶ 116, 117.

158. *Id.* ¶ 117.

159. Plan de Sánchez Massacre v. Guatemala, Provisional Measures, Order of the Court, Inter-Am. Ct. H.R. (ser. E) “Having Regard To” ¶ 1, “Decides” ¶ 2 (Nov. 25, 2006).

160. *Id.* “Decides” ¶ 3.

161. *Id.* “Decides” ¶ 4.

November 26, 2007: The Court issued a Provisional Measures decision, in which it reiterated the requirements of the November 25, 2006 Provisional Measure decision, including the necessity of State protection of the “life, integrity and liberty” of the victims.¹⁶² The Court removed an order pertaining to one of the victims, Bonifacio Osorio Ixtapá, as Mr. Osorio Ixtapá reported that he had not been the victim of additional threats or harassment since the November 25, 2006 Provisional Measure.¹⁶³ The State was ordered to notify beneficiaries of the Provisional Measures and submit bi-monthly reports to the Court regarding the implementation of reparations.¹⁶⁴

November 28, 2007: The Court issued a Monitoring Compliance decision in which it found the State had performed a public ceremony to apologize to the victims; published the judgment; translated the American Convention into Maya-Achí; established a health care center in Rabinal; and paid a portion of the compensation ordered to most of the victims.¹⁶⁵ The Court declared that it will continue to monitor the State’s compliance with the outstanding orders.¹⁶⁶

August 5, 2008: The Court issued a Monitoring Compliance decision in which it found the State had fully compensated the representatives of the victims.¹⁶⁷ The Court also determined that the State partially complied with its obligations to compensate the victims for pecuniary and non-pecuniary damages, and circulated the Judgments on the Merits and the Judgment on Reparations and Costs in Rabinal.¹⁶⁸ The Court stated that it would continue monitoring the State’s compliance with its remaining obligations.¹⁶⁹

July 1, 2009: The Court issued a Monitoring Compliance decision in which it found the State had fully complied with the order to publish the

162. Plan de Sánchez Massacre v. Guatemala, Provisional Measures, Order of the Court, Inter-Am. Ct. H.R. (ser. E) “Having Regard To” ¶ 1, “Decides” ¶ 3 (Nov. 26, 2007).

163. *Id.* “Decides” ¶ 2, “Having Seen” ¶ 4(g).

164. *Id.* “Decides” ¶¶ 3, 4.

165. Plan de Sánchez Massacre v. Guatemala, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. “Declares” ¶¶ 1, 2(a)-(e) (Nov. 28, 2007).

166. *Id.* “Declares” ¶ 3.

167. Plan de Sánchez Massacre v. Guatemala, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. “Declares” ¶ 1 (Aug. 5, 2008).

168. *Id.* “Declares” ¶¶ 2 (a)-(b).

169. *Id.* “Declares” ¶¶ 3 (a)-(h).

Judgment in the Official Gazette and another national newspaper in both Spanish and Maya-Achí, and to repair the chapel where survivors honor the deceased victims of the massacre.¹⁷⁰ The Court found that the State had partially complied with orders to compensate one of the victims, Salomé Ic Rojas.¹⁷¹ The Court declared that it would continue to monitor compliance with the orders to identify and punish the perpetrators of the massacre; publicize and provide victims with the American Convention in Maya-Achí; provide medical and psychological treatment and housing to the victims; create programs to improve infrastructure and education; and compensate the victims.¹⁷²

July 8, 2009: In an additional Provisional Measure, the Court found that survivors of the massacre and members of organizations investigating the massacre were no longer subject to harassment that threatened their life and safety.¹⁷³ The Court thus rescinded the Provisional Measures issued on November 25, 2006 and November 26, 2007 that protected victims of the massacre and members of organizations investigating the massacre.¹⁷⁴

February 21, 2011: The Court issued a Monitoring Compliance decision determining that the State had complied with the order to translate, publish, and distribute the American Convention on Human Rights in the Maya-Achí language.¹⁷⁵ The State partially complied with the Court's order to create educational programs to preserve the Maya-Achí culture, and to compensate the heirs of two victims, Lucía Raxcacó Sesám and Natividad Morales.¹⁷⁶ The Court stated it would continue to monitor compliance with the orders to investigate and prosecute the responsible parties, provide medical and psychological treatment and housing to the victims, create programs to improve the infrastructure and education in communities surrounding Rabinal, and complete payment to victims who have not been compensated.¹⁷⁷

170. Plan de Sánchez Massacre v. Guatemala, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. "Declares" ¶¶ 1(a), (b) (July 1, 2009).

171. *Id.* "Declares" ¶ 2.

172. *Id.* "Declares" ¶¶ 3(a)-(f).

173. Plan de Sánchez Massacre v. Guatemala, Provisional Measures, Order of the Court, Inter-Am. Ct. H.R. (ser. E) "Considering" ¶ 19 (July 8, 2009).

174. *Id.* "Having Regard To" ¶ 1, "Decides" ¶ 3.

175. Plan de Sánchez Massacre v. Guatemala, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. "Decides" ¶ 2 (Feb. 21, 2011).

176. *Id.* ¶ 3.

177. *Id.*; see also *Guatemala Court Convicts Paramilitaries Over 1982 Massacre*, AMNESTY INT'L (Mar. 21, 2012), <http://www.amnesty.org/en/news/guatemala-court-convicts-paramilitaries->

VII. LIST OF DOCUMENTS

A. *Inter-American Court*

1. Preliminary Objections

[None]

2. Decisions on Merits, Reparations and Costs

[Plan de Sánchez Massacre v. Guatemala, Merits, Judgment, Inter-Am. Ct. H.R. \(ser. C\) No. 105 \(Apr. 29, 2004\).](#)

[Plan de Sánchez Massacre v. Guatemala, Merits, Separate Concurring Opinion of Judge Sergio García Ramírez, Inter-Am. Ct. H.R. \(ser. C\) No. 105 \(Apr. 29, 2004\).](#)

[Plan de Sánchez Massacre v. Guatemala, Merits, Separate Opinion of Judge Antônio Augusto Cançado Trindade, Inter-Am. Ct. H.R. \(ser. C\) No. 105 \(Apr. 29, 2004\).](#)

[Plan de Sánchez Massacre v. Guatemala, Reparations, Judgment, Inter-Am. Ct. H.R. \(ser. C\) No. 116 \(Nov. 19, 2004\).](#)

3. Provisional Measures

[Plan de Sánchez Massacre v. Guatemala, Provisional Measures, Order of the Court, Inter-Am. Ct. H.R. \(ser. E\) \(July 8, 2009\).](#)

[Plan de Sánchez Massacre v. Guatemala, Provisional Measures, Order of the Court, Inter-Am. Ct. H.R. \(ser. E\) \(Nov. 26, 2007\).](#)

[Plan de Sánchez Massacre v. Guatemala, Provisional Measures, Order of the Court, Inter-Am. Ct. H.R. \(ser. E\) \(Nov. 25, 2006\).](#)

4. Compliance Monitoring

[Plan de Sánchez Massacre v. Guatemala, Monitoring Compliance with](#)

[Judgment, Order of the Court, Inter-Am. Ct. H.R. \(Feb. 21, 2011\).](#)

[Plan de Sánchez Massacre v. Guatemala, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. \(July 1, 2009\).](#)

[Plan de Sánchez Massacre v. Guatemala, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. \(Aug. 5, 2008\).](#)

[Plan de Sánchez Massacre v. Guatemala, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. \(Nov. 28, 2007\).](#)

5. Review and Interpretation of Judgment

[None]

B. Inter-American Commission

1. Petition to the Commission

[Not Available]

2. Report on Admissibility

[Plan de Sánchez Massacre v. Guatemala, Admissibility Report, Report No. 31/99, Inter-Am. Comm'n H.R., Case No. 11.763 \(Mar. 11, 1999\).](#)

3. Provisional Measures

[None]

4. Report on Merits

[Not Available]

5. Application to the Court

[Not Available]

VIII. BIBLIOGRAPHY

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<http://www.amnesty.org/en/news/guatemala-court-convicts-paramilitaries-over-1982-massacre-2012-03-21>.

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Jo M. Pasqualucci, *The Evolution of International Indigenous Rights in the Inter-American Human Rights System*, 6 HUMAN RIGHTS L. REV. 281-322 (2006).

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