

Coc Max et. al v. Guatemala

ABSTRACT¹

This case is about an incident that took place in 1995 between an indigenous community, where refugees who had fled Guatemala during the civil war of the 1980s had returned, and a unit of the Guatemalan Army. The Army patrol killed several individuals, including children, during the clash. Eventually, the Court found Guatemala in violation of several articles of the American Convention for the events and the subsequent failure to properly investigate and provide justice to the victims.

I. FACTS

A. Chronology of Events

1981-1983: During this period, the civil war within Guatemala leads to massacres of entire communities, a majority of which are indigenous Mayans living in mountain regions.² 500,000 and a million and a half Guatemalans seek refuge abroad.³ Approximately 150,000 seek safety in Mexico, where they are recognized refugee status.⁴

October 8, 1992: The National Commission for Repatriation, Refugees, and Displaced Persons (la Comisión Nacional de Atención de Repatriados, Refugiados y Desplazados; “CEAR”) and the Permanent Commissions of Representatives of Guatemalan Refugees in Mexico (las Comisiones Permanentes de Representantes de los Refugiados Guatemaltecos en México; “CCPP”) working with the Guatemalan government sign agreements that outline the process and conditions of return for the refugees in Mexico to Guatemala.⁵

1. Katie Grossbard, Author; Kevin Zipser, Editor; Pamela Huynh, Senior IACHR Editor; Elizabeth Russo, Chief IACHR Editor; Cesare Romano, Faculty Advisor.

2. Coc Max et al v. Guatemala, Report on Merits, Report No. 28/16, Inter-Am. Comm’n H.R., Case No. 11.550, ¶ 40 (Jun. 10, 2016).

3. *Id.*

4. *Id.*

5. *Id.* ¶ 45.

The agreements state: (1) all refugee's return to Guatemala must be voluntary and carried out safely; (2) all returnees are free to practice their culture and organize freely without the interference of the government; (3) the participation of various bodies is necessary to ensure the return and subsequent settlements of the returnees are protected; (4) returnees are granted freedom of movement within the country; and (5) returnees are guaranteed the right to life and personal and community integrity.⁶ These agreements are interpreted "in a broad sense by the returnees as a promise from the Army not to enter or patrol near their communities".⁷

1994: The community of "Aurora 8 de Octubre" is established in the Department of Alta Verapaz on the Xamán estate.⁸ It consists of 140 families: ninety indigenous refugee families who have been displaced due to the armed conflict in Guatemala, and fifty other families who already reside there.⁹ The refugees who return to live in this community were previously subjected to massacres in their own villages in 1982 and have since faced persecution by the perpetrators.¹⁰

October 3, 1995: A twenty-six soldier military patrol, led by Guatemalan Army Second Lieutenant Camilo Lacán Chaclán, leaves the Rubelsanto base in Military Zone No. 21 and plans to pass by the Xamán estate in the Department of Alta Verapaz.¹¹

October 5, 1995: A number of villagers notice the military patrol approaching the estate.¹² A group of ten villagers assemble to meet the patrol and ask the commanding officer about the military presence.¹³ The villagers claim the military is violating the agreement of October 8, 1992, that promoted the return of refugees.¹⁴ The officer explains that the patrol is passing through on their way to another community and while some villagers describe the talks as peaceful, others claim the conversation

6. *Id.*

7. *Id.* ¶ 46.

8. *Coc Max et al v. Guatemala*, Report on Merits, ¶ 13.

9. *Id.*

10. *Id.* ¶ 40.

11. *Coc Max et. al v. Guatemala*, Merits, Reparations, and Costs, Judgment, ¶ 37.

12. *Coc Max et al v. Guatemala*, Report on Merits, ¶ 51.

13. *Coc Max et al v. Guatemala*, Report on Merits, ¶¶ 50-51. Note: The Commission for Historical Clarification "CEH" recorded the events that took place in early October 1995 using surviving community members statements, as well as United Nation reports and named it the "Xamán Massacre"

14. *Coc Max et. al v. Guatemala*, Merits, Reparations, and Costs, Judgment, ¶ 33, 37.

grows hostile.¹⁵ Residents begin to surround the officers protesting their presence.¹⁶ Villagers demand the soldiers surrender their weapons and await verification of the potential violations of the October 8 Agreement.¹⁷ Military officers attempt to retreat by pushing people with their rifles, during which they shoot Ms. Juana Jacinto Felipe, killing her.¹⁸ The Guatemalan Armed Forces continue to shoot and kill eleven villagers, including two children, and wound twenty-eight other villagers.¹⁹ Additionally, Santiago Pop Coc, an 8-year old villager who is walking along the road carrying a fishing rod, is deliberately shot by a retreating soldier.²⁰ When Santiago Pop Coc attempts to flee the soldier shoots him in the head and chest at close range, killing him.²¹

October 6, 1995: Guatemalan President Ramiro De León Carpio visits the village and acknowledges institutional responsibility.²² The President assigns the Military Court of First Instance of the Department of Jalapa to conduct the investigation.²³ The Prosecutor General of the Republic, and the first prosecutor assigned to this case visit the scene to gather evidence but fail to record findings or protect and preserve the scene of the crime.²⁴

October 10, 1995: The United Nations Verification Mission in Guatemala (la Misión de Verificación de las Naciones Unidas en

15. Coc Max et al v. Guatemala, Report on Merits, ¶ 51.

16. Coc Max et. al v. Guatemala, Merits, Reparations, and Costs, Judgment, ¶ 37.

17. Coc Max et al v. Guatemala, Report on Merits, ¶ 51.

18. Coc Max et. al v. Guatemala, Merits, Reparations, and Costs, Judgment, ¶ 37.

19. *Id.* ¶ 37.

20. Coc Max et al v. Guatemala, Report on Merits, ¶ 54.

21. Coc Max et al v. Guatemala, Report on Merits, ¶ 54. **Executed Victims:** (1) Abel Pérez Ramírez; ; ; (2) Andrés Miguel Mateo; (3) Carlos Fernando Chop Chip, a child; (4) Hilaria Morente de la Cruz; (5) Juana Jacinto Felipe; (6) Manuela Mateo Antonio; (7) Pablo Coc Coc, (8) Pedro Diego Andrés; (9) Pedro Medina Sánchez; (10) Maurilia Coc Max, a child; and (11) Santiago Pop Coc, a child. **Wounded Victims:** (1) Aurelio Hernández Morales; (2) Carmen Caal Saqui; (3) Efraín Grave Morente; (4) Eliseo Hernández Morales; (5) Francisco Hernández; (6) Gerardo Maldonado Sales; (7) Jacinta Matón; (8) Josefa Mendoza Aguilar; (9) Juan Medina Toma; (10) Juana Andrés Maldonado; (11) Juana Felipe Velásquez; (12) Marcos Jolomna Yat; (13) Martín Quip Mocú; (14) Mateo Pedro; (15) Natividad Sales; (16) Pascual José Pascual; (17) Pedro Daniel Carrillo López; (18) Ricardo Pop Caal; (19) Rolando Hernández Maldonado; (20) Rosenda Sales Ortiz; (21) Rosendo Morales Ortiz; (22) Santiago Cajbón Quip; (23) Santiago Maquin; (24) Santos Choc Max Coc; (25) Tomás Grave Morente; (26) Víctor Carrillo; and (27) Micaela Pascual.

22. *Id.* ¶ 61.

23. *Id.*

24. *Id.* ¶ 62.

Guatemala; “MINUGUA”) issue a report which alleges the Army members attempted to exonerate those responsible for the killings.²⁵

Mid-October 1995: The President dismisses the commander of Military Zone No. 21 which conducted the October 5th patrol and accepts the Minister of National Defenses resignation.²⁶

October 31, 1995: Ms. Rigoberta Menchú Tum, a petitioner in the case, submits a brief to the military tribunal which argues they lack jurisdiction, impartiality, and independence and should remove the case to a criminal court.²⁷

November 2, 1995: The Military Court of First Instance of the Department of Jalapa dismisses Ms. Menchú Tum’s request and states they have proper jurisdiction to hear the case.²⁸

End of January, 1996: Ms. Menchú Tum appeals the November 2, 1995 decision before the Fifth Division of the Court of Appeals.²⁹ The Fifth Division of the Court of appeals transfers the case to the Second Court of First Instance of Cobán, Alta Verapaz.³⁰

May 14, 1996: The Criminal Court of First Instance of the Department of Alta Verapaz conducts an investigation of the scene.³¹

May 30 and 31, 1996: The Criminal Court of First Instance of the Department of Alta Verapaz issues a decision voiding the pretrial detention order of eight patrol members.³²

June 29, 1996: The Public Prosecution Service files an indictment charging twenty-five army patrol members who were involved in the massacres.³³

25. *Id.* ¶ 65.

26. *Id.* ¶ 66.

27. *Coc Max et al v. Guatemala*, Report on Merits, ¶ 67.

28. *Id.* ¶ 68.

29. *Id.* ¶ 69.

30. *Id.* ¶ 69.

31. *Id.* ¶ 71.

32. *Id.* ¶ 72.

33. *Coc Max et al v. Guatemala*, Report on Merits, ¶ 74.

May 7, 1997: Cobán, Alta Verapaz's Sentencing Court orders the initiation of a criminal trial.³⁴

March 3, 1998: Ms. Menchú Tum submits a petition to Cobán, Alta Verapaz's Sentencing Court which expresses concern in the court's delay in holding the criminal proceedings.³⁵

April 16, 1998: Ms. Menchú Tum files an application for constitutional relief which alleges the Cobán, Alta Verapaz's Sentencing Court arbitrarily rejected evidence.³⁶

April 20, 1998: The 12th Division of the Court of Appeals denies the application.³⁷

November 3, 1998: Special Prosecutor assigned to the case, Mr. Ramiro Contreras Valenzuela, resigns from the case citing threats and intimidation.³⁸

January 6, 1999: Ms. Menchú Tum withdraws from the case because she feels the State is not abiding by the rules of criminal due process.³⁹

August 12, 1999: Cobán, Alta Verapaz's Sentencing Court acquits the military patrol members of the charges of intentional bodily harm and extrajudicial execution.⁴⁰ The court states further that the patrol did not intend to kill and wound the villagers and if they had, could have done a lot more damage with the military equipment they were carrying.⁴¹

The court finds the eleven deaths and injuries are the result of the incompetence of the officer in command of the patrol, Officer Camilo Lacán Chaclán, and convict him and ten other soldiers with manslaughter.⁴² The fifteen soldiers are sentenced to five years of imprisonment.⁴³ The remaining fourteen patrol members are convicted of

34. *Id.* ¶ 75.

35. *Id.* ¶ 78.

36. *Id.* ¶ 79.

37. *Id.* ¶ 80.

38. *Id.* ¶ 83.

39. *Coc Max et al v. Guatemala*, Report on Merits, ¶ 85.

40. *Id.* ¶ 86.

41. *Id.* ¶ 86.

42. *Id.* ¶ 86.

43. *Id.* ¶ 86.

being complicit in the manslaughter and are sentenced to four years of imprisonment.⁴⁴ All sentences are convertible to a fine.⁴⁵

August 23, 1999: The Public Prosecution Service appeals the convictions before the 14th Division of the Court of Appeals and requests the convictions be voided and the soldiers be charged with extrajudicial execution and attempted extrajudicial execution.⁴⁶

December 6, 1999: The 14th Division of the Court of Appeals voids the judgment and convicts the ten soldiers, not including Officer Lacán Chaclán, of the crimes of grievous bodily harm and murder.⁴⁷ The court sentences them to twelve years in prison, all convertible to a daily fine.⁴⁸

April 12, 2000: The Criminal Chamber of the Supreme Court of Justice responds to the Public Prosecution Service's appeal to the December 6, 1999 decision and voids the judgment.⁴⁹ Furthermore, the court orders a new criminal proceeding and the arrest of the fifteen soldiers who were previously acquitted.⁵⁰

July 8, 2004: Cobán, Alta Verapaz's Sentencing Court convicts the fourteen soldiers, including Officer Lacán Chaclán, with the extrajudicial execution of the eleven deceased individuals and the infliction of grievous bodily harm to various other victims.⁵¹

II. PROCEDURAL HISTORY

A. *Before the Commission*

November 16, 1995: Representatives for the victims, Ms. Menchú Tum, Mr. Eduardo Antonio Salerno, and Ms. María López Funes lodge a petition with the Inter-American Commission on Human Rights.⁵²

44. *Id.* ¶ 86.

45. *Coc Max et al v. Guatemala*, Report on Merits, ¶ 86.

46. *Id.* ¶ 88.

47. *Id.* ¶ 89.

48. *Id.* ¶ 89.

49. *Id.* ¶ 90.

50. *Id.* ¶ 90.

51. *Coc Max et al v. Guatemala*, Report on Merits, ¶ 92.

52. *Coc Max et. al v. Guatemala*, Merits, Reparations, and Costs, Judgment, ¶ 2.

Between November 16, 1995 and December 6, 1995: Grupo de Apoyo Mutuo (GAM) joins the petition.⁵³

June 10, 2016: Commission approves Admissibility and Merits Report No. 28/16.⁵⁴

The petitioners argue that the exception to exhaustion of domestic remedies should apply because the investigation was initially carried out by the military tribunal, contrary to the Convention standards.⁵⁵ Although the case was transferred to ordinary criminal courts in 1996, the proceedings were unreasonably long.⁵⁶ Furthermore, the petitioners allege that although a criminal conviction punished those responsible, the State has failed to provide any reparations to the victims and their families, many of which remain disabled as a result of the events.⁵⁷

The State argues that immediately after the isolated and unplanned incident an investigation was opened to clarify the facts and punish those responsible.⁵⁸ The investigation led to convictions of fourteen members of the armed forces.⁵⁹ As a result, the State believes the situation was fully remedied at the domestic level thereby barring the Commission from ruling on the case.⁶⁰

The Commission holds that domestic remedies have been exhausted.⁶¹ Furthermore, the Commission notes that it will not review the proceedings and decisions of the domestic courts, but rather determine if the State authorities' acts rose to the level of human right violations.⁶² Based on the foregoing, the Commission concludes that the State violated Articles 4(1) (Right to Life), 5(1) (Right to Personal Integrity), 8(1) (Right to Judicial Guarantees), 19 (Rights of the Child), 24 (Right to Equality Before the Law), and 25(1) (Right to Protection Judicial).⁶³

The Commission recommends the State: (1) compensate the victims; (2) publicly acknowledge responsibility; (3) provide culturally appropriate mental and physical healthcare to the survivors and the next

53. *Id.*

54. Coc Max et al v. Guatemala, Report on Merits, ¶ 4.

55. *Id.* ¶ 14.

56. *Id.* ¶ 14.

57. *Id.* ¶ 19.

58. *Id.* ¶ 21.

59. *Id.* ¶ 22.

60. Coc Max et al v. Guatemala, Report on Merits, ¶ 23.

61. *Id.* ¶ 30.

62. *Id.* ¶ 37.

63. *Id.* ¶ 4.

of kin of the victims; (4) adopt measures to prevent non-repetition.⁶⁴ These measures should include: (i) implementation of classes on international humanitarian law at military training colleges; (ii) strengthening the domestic resources used to investigate human rights violations committed during armed conflict; (iii) adoption of effective policies which focus on the harassment and intimidation of victims, witnesses, and legal operators.⁶⁵

B. Before the Court

September 21, 2016: The Commission submits the case to the Court, after the State failed to adopt its recommendations.⁶⁶

March 31, 2017: The Group of Mutual Support (el Grupo de Apoyo Mutuo; “GAM”), the victim’s representatives, submits a brief to the Court which contains requests, evidence, and arguments in favor of the victims.⁶⁷ Furthermore, the brief requests the Court find the State internationally responsible and orders the State to provide reparations.⁶⁸

July 3, 2017: The State opposes the alleged violations and submits its brief in response to observations, arguments, and evidence.⁶⁹

February 8, 2018: The Court adopts provisional measures in favor of the alleged victims Mr. Efraín Grave Morente, Mr. Natividad Sales Calmo, Mr. Tomás Grave Morente, as well as the representatives to the victims, Mr. Maynor Estuardo Alvarado Galeano and Ms. Karla Lorena Campos Flores.⁷⁰

Violations Alleged by Commission⁷¹

Article 4(1) (Prohibition of Arbitrary Deprivation of Life)

Article 5(1) (Right to Physical, Mental, and Moral Integrity)

Article 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal)

64. *Id.* “Recommendations”, ¶¶ 1-2.

65. *Id.* ¶ 2.

66. *Coc Max et. al v. Guatemala, Merits, Reparations, and Costs, Judgment*, ¶ 3.

67. *Id.* ¶ 6.

68. *Id.* ¶ 6.

69. *Id.* ¶ 7.

70. *Id.* ¶ 10.

71. *Coc Max et al v. Guatemala, Report on Merits*, ¶ 170.

Article 19 (Rights of the Child)
 Article 24 (Right to Equal Protection)
 Article 25(1) (Right to Judicial Protection)
all in relation to:
 Article 1(1) (Obligation of Non-Discrimination) of the American
 Convention

Violations Alleged by Representatives of the Victims⁷²

Same violations alleged by the Commission, plus:⁷³
 Article 21 (Right to Property)
in relation to:
 Article 1(1) (Obligation of Non-Discrimination) of the American
 Convention.

III. MERITS

*Composition of the Court*⁷⁴
 Eduardo Ferrer Mac-Gregor Poisot, President
 Humberto Antonio Sierra Porto, Judge
 Elizabeth Odio Benito, Judge
 Eugenio Raúl Zaffaroni, Judge, and
 L. Patricio Pazmiño Freire, Judge

Pablo Saavedra Alessandri, Secretary, and
 Emilia Segares Rodríguez, Deputy Secretary

A. *Decision on the Merits*

August 22, 2018 The Court issues its Judgment on Merits, Reparations
 and Costs.⁷⁵

The Court found unanimously that Guatemala had violated:

Article 8(1) (Right to a Hearing Within Reasonable Time by a
 Competent and Independent Tribunal), Article 25(1) (Right to Judicial
 Protection), in relation to Article 1(1) (Obligation of Non-

72. *Coc Max et. al v. Guatemala, Merits, Reparations, and Costs, Judgment*, ¶ 6. Victims
 Representatives: The Group of Mutual Support (el Grupo de Apoyo Mutuo; “GAM”)

73. *Id.*

74. Judge Eduardo Vio Grossi, Vice President, did not participate in the deliberation of this
 judgment because of force majeure. *Id.* at n.4. For undisclosed reasons, Judge Ricardo Perez
 Manrique did not participate in the deliberation.

75. *Id.* ¶ 1.

Discrimination) of the Convention, to the detriment of the relatives of the deceased or injured persons, as well as injured persons,⁷⁶ because:

The Court has long held that victims of human rights violations have a right to obtain justice through a thorough investigation and subsequent prosecution of those responsible.⁷⁷ This process includes an uncovering of facts to clarify the events that led to the human rights violations.⁷⁸ Thus, the State was obligated to develop impartial and speedy investigative procedures aimed at the specific goal of determining the truth.⁷⁹ This right to justice is not only a right of the victim, but also extends to his or her next of kin.⁸⁰

Although the State convicted fourteen members of the armed forces for the crimes of extrajudicial execution and grievous bodily harm, eleven of the convicted members remain at large.⁸¹ More than eighteen years have elapsed since the conviction and the State has failed to present any

76. Coc Max et. al v. Guatemala, Merits, Reparations, and Costs, Judgment, ¶ 98. Victims named by Court: (1) Santiago Maquín Quip; (2) Gerardo Maldonado Sales; (3) Rosendo Morales Ortíz; (4) Aurelio Hernández Morales; (5) Carmen Caal Saqui; (6) Eliseo Hernández Morales; (7) Francisco Hernández; (8) Jacinta Matón Raymundo; (9) Josefa Mendoza Aguilar; (10) Juana Andrés Maldonado; (11) Juana Felipe Velásquez; (12) Marcos Raymundo Jolomná Yat; (13) Martín Quip; Mucú; (14) Mateo Pedro; (15) Natividad Sales Calmo; (16) Pascual José Pascual; (17) Pedro Daniel Carrillo López; (18) Ricardo Pop Caal; (19) Rosenda Sales Ortíz; (20) Santiago Cajbón Quip; (21) Santos Choc Coc; (22) Víctor Carrillo Morales; (23) Micaela Pascual Juan; (24) José Hernández; (25) Germán Cajbón Choc; (26) Efraín Grave Morente; (27) Juan Medina Toma; (28) Rolando Hernández Maldonado; (29) Tomás Grave Morente; (30) José María Grave; (31) Fermína Grave Morente; (32) Marselo Grave Morente; (33) Margarita Grave Morente; (34) Anastacio Chop García; (35) Daniela Catarina Chic López; (36) Manuela Toma Gómez; (37) María Medina Toma; (38) Antonio Medina Toma; (39) Domingo Medina Toma; (40) Diego Medina Toma; (41) Pedro Medina Toma; (42) Antonio Medina Toma; (43) Teresa Medina Toma; (44) Joel Medina Toma; (45) Carlos Medina Toma; (46) Atilana Hernández Maldonado; (47) Mario Alberto Ramírez Hernández; (48) Fabiana Ramírez Hernández; (49) Juan Ramírez Hernández; (50) José Eduardo Ramírez Hernández; (51) Marcos Enrique Ramírez Hernández; (52) María Alicia Ramírez Hernández; (53) Roberto Rafael Ramírez Hernández; (54) Ramón Mateo; (55) Florinda Sales Jacinto; (56) Adelina Sales Jacinto; (57) Petrona Miguel Méndez; (58) Angelina Diego Miguel; (59) Andrés Diego Miguel; (60) Lucía Diego Miguel; (61) Diego Diego Miguel; (62) Pedro Coc Chén; (63) Victoria Max Yat; (64) Feliciano Cajbón Hu; (65) María Coc Cajbón; (66) José Coc Cajbón; (67) Anastacia Coc Cajbón; (68) Petrona Coc Cajbón; (69) Irene Coc Cajbón; (70) Salvador Coc Cajbón; ; ; (71) Ana Coc Cajbón; (72) Juana Juan; (73) María Miguel Juan; (74) Dolores Miguel Bartolo; (75) Francisco Miguel Bartolo; (76) Manuela Pop Choc; (77) Francisco Quip Choc; (78) Petrona Quip Pop; (79) Margarita Quip Pop; (80) Martín Maquín Quip Pop; (81) Dominga Maquín Pop; (82) Santiago Quip Pop; (83) José Morales Ortíz; (84) Cruz Maldonado Silvestre; (85) Martalia Hernández Maldonado; (86) Andrés Hernández Maldonado; (87) Florencia Hernández Maldonado; (88) Cristina Grave Morente, and (89) Eulalia Antonio

77. *Id.* ¶ 79.

78. *Id.*

79. *Id.*

80. *Id.* ¶ 79.

81. *Id.* ¶ 88.

evidence to explain what steps have been taken to apprehend the eleven fugitives.⁸² The State simply produced arrest warrants for the eleven fugitives, but took no other sufficient action to locate them.⁸³ Thus, the Court held that investigation lacked due diligence because the State's failure to apprehend the eleven fugitives prevented the families of those killed, and injured survivors and their families and from accessing justice.⁸⁴

Article 4(1) (Prohibition of Arbitrary Deprivation of Life), in relation to Article 1(1) (Obligation of Non-Discrimination) of the Convention, to the detriment of eight people who were killed at the time of the events, Mr. Abel Ramírez Pérez, Mr. Andrés Miguel Mateo, Ms. Hilaria Morente de la Cruz, Ms. Juana Jacinto Felipe, Ms. Manuela Mateo Antonio, Mr. Pablo Coc Coc, Mr. Pedro Diego Andrés, and Mr. Pedro Medina Sánchez,⁸⁵ because:

The Court has held that the right to life not only includes the requirement that no individual be arbitrarily deprived of his or her life, but also requires the State implement all necessary measures to ensure the right to life is preserved and protected.⁸⁶ In the context of extrajudicial executions, states are required to adopt measures that will prevent arbitrary executions by their own state actors.⁸⁷ The state has the burden to prove that the use of force by state actors that results in death was for a legitimate purpose.⁸⁸

The State failed to provide a satisfactory explanation for the use of force that demonstrated the requirements of legality, proportionality, and necessity.⁸⁹ Thus, in the absence of legitimate arguments from the State to justify the use of force by the army members, the Court held the deaths constituted arbitrary deprivations of the right to life.⁹⁰

In relation to the duty of non-discrimination, the present case involves internal armed conflict against an indigenous population improperly

82. Coc Max et. al v. Guatemala, Merits, Reparations, and Costs, Judgment., ¶ 90.

83. *Id.* ¶ 89.

84. *Id.* ¶ 92.

85. *Id.* ¶ 120.

86. *Id.* ¶ 107.

87. Coc Max et al v. Guatemala, Report on Merits, ¶ 110.

88. *Id.*

89. Coc Max et. al v. Guatemala, Merits, Reparations, and Costs, Judgment., ¶ 111.

90. *Id.*

labeled as an internal enemy of the state.⁹¹ The Court concluded that the action taken by military personnel was directly linked to the discrimination against a community of indigenous people, therefore breaching the duty of non-discrimination.⁹²

Article 5(1) (Right to Physical, Mental, and Moral Integrity), in relation to Article 1(1) (Obligation of Non-Discrimination) of the Convention, to the detriment of the victims,⁹³ because:

The Court concluded that the State violated the right to personal, physical and mental integrity of the twenty-nine persons who were injured in the massacre following the same line of reasoning as seen above in the

91. *Id.* ¶ 119

92. *Coc Max et. al v. Guatemala, Merits, Reparations, and Costs, Judgment.* ¶ 119

93. *Id.* ¶ 120. **Twenty-nine Injured Victims:** 1. Aurelio Hernández Morales, 2. Carmen Caal Saqui, 3. Eliseo Hernández Morales, 4. Francisco Hernández, 5. Jacinta Matón Raymundo, 6. Josefa Mendoza Aguilar, 7. Juana Andrés Maldonado, 8. Juana Felipe Velásquez, 9. Marcos Jolomná Yat, 10. Martín Quip Mucú, 11. Mateo Pedro, 12. Natividad Sales Calmo, 13. Pascual José Pascual, 14. Pedro Daniel Carrillo López, 15. Ricardo Pop Caal, 16. Rosenda Sales Ortíz, 17. Santiago Cajbón Quip, 18. Santos Choc Coc, 19. Víctor Carrillo, 20. Micaela Pascual, 21. José Hernández, 22. Germán Cajbón Choc, 23. Efraín Grave Morente, 24. Juan Medina Toma, 25. Rolando Hernández Maldonado, 26. Tomas Grave Morente, 27. Santiago Maquín Quip, 28. Gerardo Maldonado Sales, and 29. Rosendo Morales Ortiz. **Family Member Victims: A) Relatives of Hilaria Morente de la Cruz (deceased):** 1. José María Grave (husband or partner); 2. Fermina Grave Morente (daughter); 3. Marselo Grave Morente (son) 4. Margarita Grave Morente (daughter), 5. Cristina Grave Morente (daughter), 6. Efraín Grave Morente (son), and 7. Tomás Grave Morente (son). **B) Relatives of Carlos Fernando Chop Chic (deceased child):** 8. Anastacio Chop García (father) and 9. Daniela Catarina Chic López (mother). **C) Relatives of Pedro Medina Sánchez (deceased):** 10. Manuela Toma Sánchez (wife or partner); 11. María Medina Toma (daughter); 12. Antonio Medina Toma (son); 13. Domingo Medina Toma (son); 14. Diego Medina Toma (son); 15. Pedro Medina Toma (son); 16. Antonio Medina Toma (son); 17. Teresa Medina Toma (daughter); 18. Joel Medina Toma (son); 19. Carlos Medina Toma (son), and 20. Juan Medina Toma (son). **D) Relatives of Abel Ramírez Pérez (deceased):** 21. Atilana Hernández (wife or partner); 22. Mario Alberto Ramírez Hernández (son); 23. Fabiana Ramírez Hernández (daughter); 24. Juan Ramírez Hernández (son); 25. José Ramírez Hernández (son); 26. Marcos Ramírez Hernández (son); 27. María Alicia Ramírez Hernández (daughter), and 28. Roberto Rafael Ramírez Hernández (son). **E) Relatives of Manuela Mateo Antonio (deceased):** 29. Ramón Mateo (father), and 30. Eulalia Antonio (mother). **F) Relatives of Juana Jacinto Felipe (deceased):** 31. Florinda Sales Jacinto (daughter) and 32. Adelina Sales Jacinto (daughter). **G) Relatives of Pedro Diego Andrés (deceased):** 33. Petrona Miguel Mendez (wife or partner); 34. Angelina Diego Miguel (daughter); 35. Andrés Diego Miguel (son); 36. Lucía Diego Miguel (daughter), and 37. Diego Miguel (son). **H) Relatives Maurilio Coc Max (child deceased):** 38. Pedro Coc Chén (father) and 39. Victoria Max Yat (mother). **I) Relatives of Pablo Coc Coc (deceased):** 40. Feliciano Cajbón Hu (wife or partner); 41. María Coc Cajbón (daughter); 42. José Coc Cajbón (son); 43. Anastacia Coc Cajbón (daughter); 44. Petrona Coc Cajbón (daughter); 45. Irene Coc Cajbón (daughter); 46. Salvador Coc Cajbón (son) and 47. Ana Coc Cajbón (daughter). **J) Relatives of Andrés Miguel Mateo (deceased):** 48. Juana Juan (wife or partner); 49. María Miguel Juan (daughter); 50. Dolores Miguel Bartolo (daughter), and 51. Francisco Miguel Bartolo (son).

violation of the right to life.⁹⁴ The Court reasoned that both violations align with similar duties of the State.⁹⁵

The right to humane treatment requires the state respect individuals physical, mental, and moral integrity.⁹⁶ The Court has explained that victim's relatives right to mental and moral integrity may be violated as a result of the acts perpetrated against their loved ones.⁹⁷ As a result, there is a presumption that the direct relatives of victims of extrajudicial killings and massacres right to moral and mental integrity is violated.⁹⁸ The state has the burden of disproving the presumption.⁹⁹ Here, the State failed to provide evidence to disprove the presumption.¹⁰⁰ In fact, this presumption was heightened due to the fact that many direct relatives witnesses the death and injury to loved ones.¹⁰¹ Furthermore, despite this violation the State failed to provide the promised medical and psychological assistance to the victims.¹⁰² Based on the foregoing, the State violated the victims next of kin's right to personal integrity.¹⁰³

Article 4(1) (Prohibition of Arbitrary Deprivation of Life), in relation to Article 19 (Rights of the Child) and Article 1(1) (Obligation of Non-Discrimination) of the Convention, to the detriment of the three child victims, Carlos Fernando Chop Chic, Santiago Coc, and Maurilia Coc Max,¹⁰⁴ because:

The Court found that children faced with military aggression have a "special vulnerability" that must be protected as they are the least equipped to deal with a dangerous situation like the massacre.¹⁰⁵ In particular, in situations involving children, the state has heightened duties of prevention and protection in the context of the use of force by state agents.¹⁰⁶ Here, the State agents not only failed to protect the three children killed, but directly caused the deaths through the use of

94. *Id.* ¶¶ 104, 108.

95. *Id.* ¶ 104, 108.

96. *Id.* ¶ 108.

97. *Id.* ¶ 123.

98. Coc Max et. al v. Guatemala, Merits, Reparations, and Costs, Judgment., ¶ 123.

99. *Id.* ¶ 123.

100. *Id.* ¶ 124.

101. *Id.* ¶ 124.

102. *Id.* ¶ 124.

103. *Id.* ¶ 129.

104. Coc Max et. al v. Guatemala, Merits, Reparations, and Costs, Judgment., ¶ 120.

105. *Id.* ¶ 115.

106. *Id.* ¶ 112.

*unnecessary force thereby violating their right to life.*¹⁰⁷ *Additionally, as highlighted above, the violence was proven to be discriminatory against a group of indigenous people; therefore the State also violated Article 1 (Obligation of Non-Discrimination).*¹⁰⁸

The Court found unanimously that Guatemala had not violated:

Article 21 (Right to Property) because:

*The Court reasoned that the patrol did not enter into an individual's property, but rather, property that was owned by a collective.*¹⁰⁹ *Therefore, the intrusion did not specifically injure a victim's personal private property.*¹¹⁰

Article 24 (Right to Equal Protection), in relation to Article 1(1) (Obligation of Non-Discrimination) of the Convention because:

*A state violates the right to equal protection when it distinguishes between certain individuals based on various characteristics to determine who deserves the protections granted through domestic law.*¹¹¹ *Here, the State did not violate the alleged victim's rights based on their age or other identifying characteristics.*¹¹²

IV. REPARATIONS

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

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

1. Judgment as a Form of Reparation.

The Court indicated that the Judgment itself should act as a form of reparation.¹¹³

107. *Id.* ¶ 115.

108. *Id.* ¶ 117.

109. *Id.* ¶ 135.

110. *Coc Max et. al v. Guatemala, Merits, Reparations, and Costs, Judgment.*, ¶ 135

111. *Id.* ¶ 105.

112. *Id.* ¶ 140-142.

113. *Id.* ¶ 7. .

2. Adopt Necessary Measures for Investigation.

The State must continue to investigate in an effort to apprehend the eleven fugitives who have been named in arrest warrants.¹¹⁴

3. Provide psychiatric or psychological treatment to victims

The State must create a healthcare program that provides both physical or psychological treatment to survivors and their family members.¹¹⁵ The free psychological or psychiatric treatment, along with the medications prescribed for their suffering, shall be provided for as long as necessary by the center located closest to their places of residence.¹¹⁶

4. Publish the Judgment

The State must publish within six months, 1) the official summary of the Judgment in an official, widely circulated newspaper such as the Official Gazette, and 2) the entire judgment on an official State website accessible by the public, for a period of at least one year.¹¹⁷

5. Publicly Accept Responsibility

The State must perform a public act of acknowledgment of responsibility within one year of the Judgment.¹¹⁸ The State must consult with the victims and their representatives to determine where and how the act will be carried out, paying special attention to the different languages spoken amongst the victims.¹¹⁹ The State's officials must attend the public acknowledgment of responsibility, of which will be transmitted through television or radio.¹²⁰

6. Establish a Health Center

114. *Id.* ¶ 152.

115. *Id.* ¶ 153.

116. *Coc Max et. al v. Guatemala, Merits, Reparations, and Costs, Judgment*, ¶¶ 153, 155.

117. *Id.* ¶ 158.

118. *Id.* ¶ 163.

119. *Id.* ¶ 163.

120. *Id.* ¶ 163.

The State must establish a Health Center located in the Aurora Community within two years in order to provide victims and members of the community access to basic health services.¹²¹

7. Expand and Pave the Road to the Between the Community
and the Highway

The State must commence work on the expansion of the road connecting the Traversal Strip of the North to the interior of the Aurora Community.¹²²

B. Compensation

The Court awarded the following amounts:

1. Pecuniary Damages

The Court awarded the following respective amounts for each of the eleven deceased victims as compensation for pecuniary damages:

(1) \$67,000 to Mr. Abel Ramirez Perez; (2) \$15,000 to Mr. Andres Miguel Mateo; (3) \$15,000 to Ms. Hilaria Morente de la Cruz; (4) \$39,000 to Ms. Juana Jacinto Felipe; (5) \$92,000 to Ms. Manuela Mateo Antonio; (6) \$24,000 to Mr. Pablo Coc Coc; (7) \$42,000 to Mr. Pedro Diego Andres; (8) \$22,000 to Mr. Pedro Medina Sanchez; (9) \$92,000 to Mr. Carlos Fernando Chop Chic; (10) \$100,000 to Mr. Santiago Coc; and (11) \$108,000 to Ms. Maurilia Coc Max.¹²³

The Court awarded each of the twenty-nine-people injured \$7,000 as compensation for pecuniary damages.¹²⁴

2. Non-Pecuniary Damages

The Court ordered the State to give \$80,000 to each of the eight adult deceased victims as compensation for the violation of the right of life.¹²⁵ The three minor deceased victims were each awarded \$90,000 as compensation for the violation of the right to life.¹²⁶ The Court awarded \$10,000 to each of the fifty-one family members of the deceased victims as compensation for their suffering.¹²⁷

121. *Id.* ¶ 167.

122. *Coc Max et. al v. Guatemala, Merits, Reparations, and Costs, Judgment*, ¶ 171.

123. *Id.* ¶ 186.

124. *Id.* ¶ 186 See fn. 94 for list of victims.

125. *Id.* ¶ 190.

126. *Id.* ¶ 190.

127. *Id.* ¶ 190 See fn. 94 for list of family members.

With respect to the 29 injured victims, the Court ordered payment of \$20,000 to each as compensation for the violation of the right to personal integrity.¹²⁸

The Court ordered a payment of \$5,000 to the twelve victims whose rights to judicial guarantees and judicial protection were violated by the State, specifically, (1) Manuela Pop Choc, (2) Francisco Quip Choc, (3) Petrona Quip Pop, (4) Margarita Quip Pop, (5) Martin Maquin Quip Pop, (6) Dominga Maquin Pop, (7) Santiago Quip Pop, (8) Jose Morales Ortiz, (9) Maldonado Silvestre Cross, (10) Martalia Hernandez Maldonado, (11) Andres Hernandez Maldonado, and (12) Florenica Hernandez Maldonado.¹²⁹

3. Costs and Expenses

The Court awarded \$30,000 to GAM for the costs and expenses incurred during the domestic and international criminal proceedings.¹³⁰

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

\$ 2,499,000

C. Deadlines

The State must pay pecuniary, and non-pecuniary damages, as well as costs and expenses, within one year of this judgment.¹³¹

V. INTERPRETATION AND REVISION OF JUDGMENT

[None]

VI. COMPLIANCE AND FOLLOW-UP

[None]

VII. LIST OF DOCUMENTS

A. *Inter-American Court*

128. Coc Max et. al v. Guatemala, Merits, Reparations, and Costs, Judgment, ¶ 190 c.

129. *Id.* ¶ 190 e.

130. *Id.* ¶ 195.

131. Coc Max et. al v. Guatemala, Merits, Reparations, and Costs, Judgment, ¶ 196.

1. Preliminary Objections

[None]

2. Decisions on Merits, Reparations and Costs

[Coc Max et. al v. Guatemala, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. \(ser.C\) No. 356 \(Aug. 22, 2018\).](#)

3. Provisional Measures

[Coc Max et. al v. Guatemala, Provisional Measures, Order of the Inter-American Court of Human Rights, Inter-Am. Ct. H.R. \(Ser.C\) No. 356, \(Feb. 6, 2019\).](#)

[Coc Max et. al v. Guatemala, Adoption of Provisional Measures, Order of the Inter-American Court of Human Rights, Inter-Am. Ct. H.R. \(Ser.C\) No. 356 \(Feb. 8, 2018\).](#)

[Coc Max et. al v. Guatemala, Call to a Public Hearing, Order of the Acting President of the Inter-American Court of Human Rights, Inter-Am. Ct. H.R. \(Ser.C\) No. 356, \(Dec. 13, 2013\).](#)

4. Compliance Monitoring

[None]

5. Review and Interpretation of Judgment

[None]

B. Inter-American Commission

1. Petition to the Commission

[None]

2. Report on Admissibility

[Coc Max et al v. Guatemala, Admissibility and Merits Report, Report No. 28/16, Inter-Am. Comm'n H.R., Case No. 11.550, \(Jun. 10, 2016\).](#)

3. Provisional Measures

[None]

4. Report on Merits

[Coc Max et al v. Guatemala, Admissibility and Merits Report, Report No. 28/16, Inter-Am. Comm'n H.R., Case No. 11.550, \(Jun. 10, 2016\).](#)

5. Application to the Court

[None]

VIII. BIBLIOGRAPHY

[None]