

**ORDER OF THE
INTER-AMERICAN COURT OF HUMAN RIGHTS
OF JUNE 22, 1994**

**PROVISIONAL MEASURES REQUESTED BY THE
INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
IN THE MATTER OF GUATEMALA**

COLOTENANGO CASE

The Inter-American Court of Human Rights, composed of the following judges:

Rafael Nieto-Navia, President
Héctor Fix-Zamudio, Vice-President
Alejandro Montiel-Argüello, Judge
Máximo Pacheco-Gómez, Judge
Hernán Salgado-Pesantes, Judge;

also present:

Manuel E. Ventura-Robles, Secretary
Ana María Reina, Deputy Secretary

issues the following order:

1. On June 20, 1994, the Inter-American Court of Human Rights (hereinafter "the Court") received from the Inter-American Commission on Human Rights (hereinafter "the Commission" or "the Inter-American Commission"), a request for provisional measures dated June 17, regarding the Colotenango Case (Nº 11.212) against the Government of Guatemala (hereinafter "the Government" or "Guatemala"), which is currently before the Commission.

2. The request is based on Articles 63 (2) of the American Convention on Human Rights (hereinafter "the Convention" or "the American Convention"), 76 of the Regulations of the Commission, and 23 and 24 of the Rules of Procedure of the Court (hereinafter "the Rules of Procedure") and urges the Court to require the Government to take the following provisional measures:

I. First, that the Honorable Court request the Government of Guatemala to adopt effective security measures to protect the life of the witnesses, relatives and attorneys named in this request and, in particular, of the following persons:

PATRICIA ISPANEL-MEDIMILLA
MARCOS GODÍNEZ-PÉREZ
NATIVIDAD GODÍNEZ-PÉREZ
MARÍA SALES-LÓPEZ
RAMIRO GODÍNEZ-PÉREZ
JUAN GODÍNEZ-PÉREZ
MIGUEL GODÍNEZ-DOMINGO
ALBERTO GODÍNEZ

MARÍA GARCÍA-DOMINGO
 GONZALO GODÍNEZ-LÓPEZ
 ARTURO FEDERICO MÉNDEZ-ORTIZ
 ALFONSO MORALES-JIMÉNEZ

II. To request the Government of Guatemala to adopt all necessary effective measures to ensure that the above mentioned persons may continue to reside at or return to their homes in Colotenango, safe in the knowledge that they will not be persecuted or threatened by the civil patrols or Voluntary Civil Defense Committees, or by military units or other agents of the State. Furthermore, that it take the necessary measures to guarantee to Attorney Patricia Ispanel-Medimilla the right to freely exercise her profession.

III. To request the Government of Guatemala to enforce the arrest warrants issued against the remaining patrolmen charged as suspects in the case before the Second Trial Court of Huehuetenango involving the criminal acts committed on August 3, 1993 in Colotenango.

IV. To request the Court to convene a public hearing as early as possible, to enable the Commission to describe in detail the vulnerability of the witnesses and family members of the victims, as well as the human rights defense attorneys in Colotenango, Huehuetenango. This hearing will also provide the Government of Guatemala with the opportunity to inform the Court regarding the concrete measures it has taken to solve the crimes charged, to punish those responsible and to prevent the recurrence of these threats and attacks against the witnesses, the family members of the victims and the human rights defense attorneys in the case.

V. To request the authorities of the Guatemalan Government to issue a public statement to be broadcast by the principal media outlets of the country, recognizing, first, the legitimacy of civil organizations such as CONAVIGUA, CUC and CONDEG (National Coordinator of Displaced Persons of Guatemala), whose members have suffered, and continue to suffer, persecution because of their opposition to the abuses committed by state organizations such as the so-called Defense Patrols. The statement should furthermore emphasize that participation in the Comités Voluntarios de Defensa Civil "PACs" (Voluntary Civil Defense Committees) or similar groups is strictly voluntary; consequently, nobody can be forced to take part in them. That those rights and guarantees are enshrined in the American Convention on Human Rights, as well as in the Constitution of the Republic of Guatemala, whose Article 34 reads as follows:

The right of freedom of association is hereby recognized.
 No person shall be compelled to join or form part of self-defense or other types of groups or associations.

VI. To request the Government of Guatemala to report to the Commission and to the Inter-American Court of Human Rights on the measures adopted pursuant to the provisional measures to be ordered by that Court.

3. The Commission bases its request for provisional measures on the following:

2. The witnesses to a violent attack carried out on August 3, 1993 by civil patrols against unarmed persons who were participating in a demonstration for human rights in the city of Colotenango, Department of Huehuetenango, are in grave, imminent danger. The parents of two of the witnesses to the case have been murdered, while other witnesses have been seriously injured and subjected to accusations and arbitrary detention; others still have received death threats. At least one of the witnesses has been forced to abandon his home and move to another region of Guatemala. Legal actions have been instituted against the civil associations that support them, in order to intimidate those groups. All of these abuses appear to be aimed at silencing the persons who, in the course of the public demonstration of August 3, 1993, witnessed the murder of human rights advocate JUAN CHANAY-PABLO and the attacks which injured MIGUEL MORALES-MENDOZA and JULIA GABRIEL-SIMÓN.

The denunciations indicate that the danger faced by these witnesses and their relatives is posed by members of the armed civil patrols which go under the name of Voluntary Civil Defense Committees. These are armed groups which act under the control and responsibility of the Army of Guatemala.

3. The public demonstration of August 3, 1993 in the municipal capital of Colotenango brought together a large number of peasants from various neighboring villages. They had gathered to express their refusal to take part in the civil defense patrols and to protest the abuses committed by these units. The patrols have been repeatedly accused of responsibility for violations in previous years. In 1993, the patrols were formally charged with responsibility for a large number of violations, including the death of peasants Juan Domingo-Sánchez, Pascuala Sánchez-Domingo and Santa Domingo-Sánchez. The State, however, did not conduct a thorough investigation, nor did it make any arrests as a result of those charges.

4. From the information received by the Commission from the Government, it appears that in the actions filed pursuant to the attack on the Colotenango demonstrators, court orders were issued on September 9, 1993 for the arrest of 15 civil patrol members. Nevertheless, nine months later only two of the accused have been detained, according to the claimants, while the rest remain at large. The denouncers indicate that officers of the National Police have declared that they do not dare to go into Colotenango to detain the remaining thirteen patrol members because they are afraid of them. The Army, which is responsible for controlling the patrols, has for its part issued statements attempting to justify its failure to support the enforcement of the arrest warrants.

5. This breakdown of the authority of the State has made it possible for the patrol members to continue to live in their communities and threaten the witnesses to the events of Colotenango. The failure to enforce the court's warrants of arrest seems to have served as an incentive to increase the repression and harassment of the witnesses, because it is perceived as a symbol of the immunity enjoyed by the patrol members, of the lack of interest of the authorities and of the impotence of the courts.

6. On September 26, 1993, Andrés Godínez-Díaz and María Pérez-Sánchez were murdered in their home in the village of Xemal. These two individuals had earlier been threatened by the patrols. The victims were the parents of witnesses RAMIRO, MARCOS and NATIVIDAD GODÍNEZ-PÉREZ. The threats they had received had been reported to the judicial authorities and to the Office of the Attorney for Human Rights, without success.

7. On April 22, 1994, two more witnesses —ARTURO FEDERICO MÉNDEZ-ORTIZ and ALFONSO MORALES-JIMÉNEZ— were detained when they appeared before the court to make a statement, having been accused of homicide. According to their defenders and the organizations presenting these denunciations, this was a false accusation aimed at intimidating them. The information available to the Commission indicates that these persons have not been released.

The above mentioned witnesses, Méndez-Ortiz and Morales-Jiménez, were accused of responsibility for the death of the Chief of the civil patrols of the town of Xemal, Colotenango, on September 15, 1993, despite the fact that there is evidence that on that day the two were in an area far removed from the murder scene.

8. Other witnesses have also received threats, among them MIGUEL MORALES-MENDOZA and JULIA GABRIEL-SIMÓN, who survived gunshot wounds at the Colotenango demonstration.

9. Lic. PATRICIA ISPANEL-MEDIMILLA, an attorney with the Pastoral Social Office of the Diocese of Huehuetenango who has thoroughly documented the case and provides advice to the victims, has on at least three occasions been followed by a suspicious-looking vehicle.

10. On May 11, 1994, a hearing was held at the Huehuetenango Court in the case against the two La Barranca patrols members who had been detained, Messrs. Juan Pérez-Godínez and Juan Díaz-García. On that day, the Army brought two truckloads of patrolmen from La Barranca. They demonstrated both inside and outside the courtroom in an effort to intimidate the persons participating in the hearing.

11. Eyewitnesses report that most of the patrolmen against whom arrest warrants were outstanding participated in this demonstration, which had been organized by the Army. Neither the representative of the Justice Department, Lic. Cecilia de Cansinos, nor the members of the National Police who were present were willing to

arrest them, although they were repeatedly urged to do so.

12. The public prosecutor, Lic. de Cansinos, spent the whole of the following day in the military base of Huehuetenango.

13. Two other witnesses to the Colotenango events, MARÍA GARCÍA-DOMINGO and ALBERTO GODÍNEZ, have been formally charged with the death of a child. The trial began three days later, on May 14, 1994. Alberto Godínez gave testimony proving his innocence and was released.

14. The private prosecutor in this case, Lic. Rudio Leccan Mérida-Herrera, also serves as such in the case against the two other witnesses ARTURO FEDERICO MÉNDEZ-ORTIZ and ALFONSO MORALES-JIMÉNEZ and is counsel for the defense of the civil patrolmen detained as a result of the events of Colotenango.

15. That same week, on May 16, 1994, RAMIRO GODÍNEZ-PÉREZ, another of the witnesses of Colotenango whose parents had been murdered by civil patrols on September 23 (see paragraph 5), was severely beaten. As a result of the beating, Ramiro Godínez suffered serious injuries. The attack was committed by civil patrols and Mr. Godínez had to be hospitalized in Huehuetenango. The victim has not filed charges for fear of further reprisals by the civil patrols, who can count upon the unconditional support of the authorities at the military base of Huehuetenango.

16. Witness NATIVIDAD GODÍNEZ-PÉREZ, the sister of Ramiro Godínez, has been forced to leave the community because of the threats she has received.

17. As a result of these attacks, other witnesses who had intended to testify are now refusing to come forward for fear of re-prisals.

18. Legal proceedings against the civil associations which support the demonstrators and their grievances were initiated on May 16 before the Second Trial Court of Huehuetenango, charging those groups with sedition. It is a criminal complaint brought against the (Comité de Unidad Campesina "CUC" (Committee of Peasant Unit), the Coordinadora Nacional de Viudas de Guatemala "CONAVIGUA" (National Coordinator of Guatemalan Widows) and the Mayan Defense Office, all of which are charged with "sedition." It is assumed that the complaint is intended to intimidate those groups which are active in furthering the trial of those responsible for the Colotenango attacks. The denouncers point out that the complaint is without merit, since Article 387 of the Criminal Code defines that offense as a crime of violence and the activities of the organizations in question are strictly peaceful.

19. On May 20, 1994, the two patrolmen who had been detained as suspects in the events of Colotenango were released on parole by court order, on their own recognizance.

4. In its request, the Commission describes the action:

20. The Commission received the original petition which gave rise to this case on November 4, 1993 and transmitted it to the Government in accordance with the standard procedures provided in the Convention.

Prior to that, on September 9, 1993, the Commission had visited Colotenango and some of the neighboring villages and interviewed the victims, eyewitnesses, civil patrols and other individuals regarding the events that had occurred in August of that year.

The denunciation that was transmitted to the Government sought provisional measures on behalf, particularly, of Messrs. MARCOS GODÍNEZ-PÉREZ, NATIVIDAD GODÍNEZ-PÉREZ, RAMIRO GODÍNEZ-PÉREZ, JUAN GODÍNEZ-PÉREZ, MIGUEL GODÍNEZ-DOMINGO, ALBERTO GODÍNEZ, MARÍA GARCÍA -DOMINGO, and GONZALO GODÍNEZ-LÓPEZ, who had testified at the proceedings and had subsequently been subjected to persecution and threats. The private prosecutors in the case, MARÍA SALES-LÓPEZ and ALFONSO MORALES, had also been subjected to the same abuses.

21. In its reply of April 26 to the Commission regarding the denunciation, the Government described the progress made in the judicial proceedings against the

accused. The Government pointed out that only three of the defendants with arrest warrants had been detained and that one of the three had been released for lack of evidence.

22. MARIANO GÓMEZ-RAMOS and MARIO LÓPEZ-GA-BRIEL, of the village of Xemal, disappeared on February 4, 1993, after making some purchases in the neighboring village of La Barranca. Acting on a denunciation and petition regarding this matter, the Commission on March 24, 1994 decided to request provisional measures on behalf of the victims. At the time of their disappearance, shots had been heard coming from the aforementioned civil patrols of Xemal. According to denunciations received, these patrols are terrorizing the local population by inspections, curfews and restrictions on their freedom of movement. The request for provisional measures was delivered by the Commission to the Government of Guatemala by note of March 30 this year, urging the latter to inform the Commission before April 15, 1994 regarding the measures taken and their result. To date, the Commission has received no response to its request.

WHEREAS:

1. Guatemala ratified the American Convention on May 25, 1978, and accepted the compulsory jurisdiction of the Court on March 9, 1987, pursuant to Article 62 of the Convention;
2. Article 63(2) of the Convention provides that in cases of extreme gravity and urgency, and when necessary to avoid irreparable damage to persons, the Court may, at the request of the Commission, adopt such provisional measures as it deems pertinent in matters not yet submitted to its consideration;
3. Article 1(1) of the American Convention sets forth the obligation of the States to respect the rights and liberties recognized in that treaty and to ensure their free and full exercise to all persons subject to their jurisdiction;
4. Guatemala is therefore under the obligation to adopt all necessary measures to protect the life and integrity of those persons whose rights might be threatened;
5. As the Commission has stated in its request for provisional measures, "*the threats and violations reported*" display *prima facie* characteristics of extreme gravity and urgency. The Court is therefore justified in adopting whatever provisional measures it deems pertinent, in order to prevent the irreparable damage to those persons on whose behalf the request has been submitted;
6. Some of the measures requested by the Commission are not aimed at "*avoid[ing] irreparable damage to persons*;" at least, the Court has no evidence to show that they are.

THEREFORE:

THE INTER-AMERICAN COURT OF HUMAN RIGHTS,

based on Article 63(2) of the American Convention on Human Rights and exercising the authority conferred on it by Articles 24 and 45 of the Rules of Procedure,

DECIDES:

1. To require the Government of Guatemala to adopt without delay all necessary measures to protect the right to life and the personal integrity of PATRICIA ISPANEL-MEDIMILLA, MARCOS GODÍNEZ-PÉREZ, NATIVIDAD GODÍNEZ-PÉREZ, MARÍA

SALES-LÓPEZ, RAMIRO GODÍNEZ-PÉREZ, JUAN GODÍNEZ-PÉREZ, MIGUEL GODÍNEZ-DOMINGO, ALBERTO GODÍNEZ, MARÍA GARCÍA-DOMINGO ,GONZALO GODÍNEZ-LÓPEZ, ARTURO FEDERICO MÉNDEZ-ORTIZ and ALFONSO MORALES-JIMÉNEZ.

2. To request the Government of Guatemala to adopt all necessary measures to ensure that the aforementioned persons may continue to reside at or return to their homes in Colotenango, providing them the assurances that they shall not be persecuted or threatened by agents of the Government or by individuals.

3. To request the Government of Guatemala to guarantee to Attorney Patricia Ispanel-Medimilla the right to exercise her profession without being subjected to undue pressures.

4. To request the Government of Guatemala to inform the Court no later than August 31, 1994, regarding the measures it has adopted to comply with this order.

5. To instruct the Secretariat of the Court to transmit the documents mentioned in the previous paragraph to the Inter-American Commission on Human Rights. The latter shall have until October 7, 1994 to submit its observations thereon.

6. To summon the Inter-American Commission on Human Rights and the Government of Guatemala to the public hearing on this case, to be held at the seat of the Court at 15:00 hours on November 28, 1994.

Done in Spanish and in English, the Spanish text being authentic, at the seat of the Court in San José, Costa Rica, this twenty-second day of June, 1994.

Rafael Nieto-Navia
President

Héctor Fix-Zamudio

Alejandro Montiel-Argüello

Máximo Pacheco-Gómez

Hernán Salgado-Pesantes

Manuel E. Ventura-Robles
Secretary