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Institution: Inter-American Commission on Human Rights  
File Number(s): Report No. 19/97; Case 11.212  
Title/Style of Cause: Juan Chanay Pablo v. Guatemala  
Doc. Type: Decision  
Decided by: Chairman: Ambassador John Donaldson;  
First Vice Chairman: Dr. Carlos Manuel Ayala Corao;  
Second Vice Chairman: Professor Robert Kogod Goldman  
Members: Ambassador Alvaro Tirado Mejia, Dr. Oscar Lujan Fappiano, Dean Claudio Grossman, Dr. Jean Joseph Exume.  
Dated: 13 March 1997  
Citation: Chanay Pablo v. Guatemala, Case 11.212, Inter-Am. C.H.R., Report No. 19/97, OEA/Ser.L/V/II.98, doc. 6 rev. (1997)  
Represented by: APPLICANTS: the Human Rights Office of the Archbishop, the Center for Justice and International Law and Human Rights Watch/Americas  
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## I. FACTS

1. On August 3, 1993, members of local communities met in Colotenango, Huehuetenango, Guatemala to protest against the abusive and illegal activities of the civil patrols in the area (known as Civilian Self-Defense Patrols, PACs, or Voluntary Committees for Civilian Self-Defense, CVDCs).[FN1] After the peaceful protest concluded, the protestors dispersed to walk home. Most had to cross the Los Naranjales bridge, which connects Colotenango to the Pan American Highway. While crossing the bridge, they were confronted by members of the local PACs, who had positioned themselves at each end of the bridge. PAC members attacked and opened fire on the group, leaving Juan Chanay Pablo dead. Julia Gabriel Simón and Miguel Morales were seriously injured, and others sustained injuries of less severity. Thereafter, civil patrol members began obstructing the legal proceedings that had been initiated with respect to the August 3 events by intimidating and attacking witnesses, the private accusers, and an attorney participating in the case. As the proceedings continued, those involved in the case continued to suffer reprisals for their actions to impel the judicial process.

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[FN1] The PACs were created in 1981, under the military regime of General Efraín Ríos Montt, as part of a policy to eradicate "suspicious" persons and communities. On the basis of its own reporting, as well as that of national, international and intergovernmental human rights groups, indicating that the PACs were responsible for serious human rights violations, the Commission repeatedly recommended their dissolution. See, e.g., Fourth Report on the Situation of Human Rights in Guatemala, OEA/Ser.L/V/II.83, Doc. 16 rev., June 1, 1993, at 53-61.

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## II. PROCESSING BEFORE THE COMMISSION

2. The Commission began processing case 11.212 in response to a November 4, 1993 petition alleging that the State of Guatemala bore responsibility for having breached its obligations under the American Convention with respect to the attack, as well as the failure of the authorities to respond with due diligence to the

attack itself and to the intimidation of witnesses and others involved in the case.[FN2] The case was opened on November 8, 1993, and, pursuant to Article 34 of the Commission's Regulations, the pertinent parts of the denunciation were transmitted to the Government with a request that it provide the information deemed pertinent within 90 days. In addition to the processing normally applicable to an individual petition under the American Convention and the Commission's Regulations, on November 18, 1993, pursuant to Article 29 of its Regulations, the Commission requested that the Government of Guatemala adopt the precautionary measures necessary to protect the lives and physical integrity of nine individuals reported to be in danger due to their participation in the domestic legal proceedings.

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[FN2] Prior to receiving the petition, during a September, 1993 on site visit to Guatemala, the Commission had travelled to Colotenango and spoken with members of the PACs and victims of the August 3, 1993 attack. By a note of September 1, 1993, the Government had offered the Commission information on the status of its investigation into the matter.

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3. The March 18, 1994 response of the Government indicated that it was investigating what it believed had been an incident of crossfire between the patrollers and the demonstrators due to the provocation of the latter or their attempt to disarm the former. The Government reported that an arrest order had been issued against the fifteen patrollers believed responsible for the August 3, 1993 attack. On March 30, 1994, the Commission addressed the Government to request that it take the precautionary measures necessary to protect the security of two additional individuals.

4. On April 29, 1994, the Commission received the observations of the petitioners in response to the report of the Government. The petitioners alleged a series of irregularities in the domestic processing of the case, and described apparent acts of reprisal against several persons involved in pursuing the matter before the courts. The pertinent portions of those observations were transmitted to the Government.

5. On June 17, 1994, the Commission requested that the Inter-American Court of Human Rights order the State to take the provisional measures necessary to protect twelve individuals whom the petitioners claimed were at risk due to their involvement in the case. By means of a resolution of June 22, 1994, the Court ordered that such measures be taken in order to protect 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 Ortíz and Alfonso Morales Jiménez. The Court ordered the Commission and the Government to report

periodically on the status of the measures adopted. In addition to its reporting, in September of 1994, the Commission travelled to Guatemala to verify the situation and security of the twelve individuals with respect to whom the Court ordered that provisional measures be taken.

6. On July 14, 1994, the Government submitted its response to the April 29, 1994 observations of the petitioners. During its 87th Regular Session in September of 1994, the Commission held a hearing on this case, and received additional information from the parties.

7. On December 1, 1994, pursuant to the consent of the State expressed in a November 28, 1994 hearing, the Inter-American Court ordered that these measures be extended for six months. The Court further ordered that they be amplified to include Francisca Sales Martín, and that the measures taken include those necessary to effectuate the arrest of the accused civil patrollers. The Commission and the Government continued to periodically report to the Court on the status of the provisional measures adopted.

8. In December of 1994, the Commission conducted an on site visit to Guatemala. On December 28, 1994, the Commission sent the Government information that had been provided by the individuals for whom protection had been ordered. The Government sent its response to this information on January 12, 1995.

9. The petitioners provided additional information on March 24, 1995, and the Government provided a response thereto on May 5, 1995. On May 16, 1995, the Government submitted an additional report on the measures it had taken to arrest eight of the individuals implicated in the August 3, 1993 attack. On June 28, 1995, the Commission sent the Government the observations of the petitioners in response to the latter's May 5, 1995 submission. On July 20, 1995, the petitioners responded to the May 16, 1995 communication of the Government. On August 28, 1995, the Government responded to the petitioners' observations.

10. Pursuant to the reporting of the Commission and the Government to the Court on the status of the provisional measures ordered, these parties were convened to appear for a hearing on September 16, 1995.

11. On November 23, December 1 and December 18, 1995, the petitioners submitted additional information and documentation in the case. The Government submitted an additional report on January 2, 1996. In the interim, on December 5, 1995, the Commission had requested that the Government provide information in response to several specific questions.

12. On January 29, 1996, the Commission submitted a written request to the Court that the provisional measures ordered in the case be extended. The Government had requested that they be terminated after February 1, 1996. The measures were extended by the Court for an additional six months by resolution of February 1, 1996. The Commission and the Government continued to report to the Court on the status of the provisional measures adopted.

13. On February 26, 1996, the Commission received an additional communication from the Government responding to the former's December 5, 1995 request for information, and responding to prior submissions of the petitioners.

14. Pursuant to its authority under Article 50 of the American Convention, and, having considered the various submissions of the parties, on March 1, 1996, the Commission adopted Report 8/96 setting forth its findings and recommendations with respect to the situation denounced. The report was transmitted to the Government with a request that it inform the Commission of the measures taken to implement those recommendations within a period of 60 days. During the period referred to in Article 51 of the Convention, the parties agreed to enter into a negotiation process, under the mediation of the Commission, with the objective of reaching a friendly settlement of the matter in conformity with Convention Article 48.f. This process included a series of meetings between the parties, under the auspices of the Commission, as well as the Commission's processing of communications between them.

15. During the period when these negotiations were underway, President Alvaro Arzú took the noteworthy decision to disband the PACs. During an August 9, 1996 ceremony held to commemorate the disbanding of the PACs/CVDC's, the President of the Presidential Coordinating Commission for Executive Policy in Human Rights recognized that while many members of the CVDCs defended themselves against "the attacks of subversion," "some also acted in excess of their competence and abuse of their arms, attacking individuals solely for non-participation in their activities."

These who committed abuses were responsible for intimidating the population, particularly toward those who expressed discontent with the conduct of some members of those Committees. .... Mention must be made of the lamentable event that occurred in 1993, in this community, when various demonstrators were attacked, leaving Juan Chanay Pablo dead and Julia Gabriel Simón and Miguel Morales injured.

Thirteen other members of the community were later threatened with death, a fact which motivated the intervention of international organizations in favor of their protection.

The President of the Republic and the highest authorities of the country recognize the excesses of all these years of armed confrontation and reiterate the political will of the Government to put an end to impunity, in order that justice predominates and the rule of law is restored throughout the nation. Colotenango is not an exception....

16. On August 21, 1996, as the negotiation process continued, the Government addressed the Inter-American Court of Human Rights to request that the provisional measures it had ordered be extended for an additional six months in order to offer "a framework of security and tranquility to the ... friendly settlement process."

17. The negotiation process was successfully concluded with the February 20, 1997 signing of a friendly settlement agreement in Colotenango, Huehuetenango and simultaneously at the Commission's headquarters in Washington, D.C. by representatives of the Republic of Guatemala; the representatives of the individuals from the communities of Colotenango who were affected as a result of the events of this case: the Human Rights Office of the Archbishop (ODHA), the Center for Justice and International Law (CEJIL) and Human Rights Watch/Americas (HRW/A). The final text of the agreement was signed by the President of the

Commission and Rapporteur on Guatemala, Dean Claudio Grossman, and the Commission's Executive Secretary, Ambassador Jorge E. Taiana.

### III. THE FRIENDLY SETTLEMENT

18. The agreement stipulates that the State of Guatemala shall provide communal assistance to the affected communities of Colotenango, in accordance with a program of projects agreed upon by the parties (to be executed by FONAPAZ.) The State shall pay Q 300,000, to be divided among the citizens directly affected by the events in question, and to be used to cover the medical and legal costs the petitioners deem pertinent. The petitioners shall provide the names of the individuals concerned to the Commission, and a list of the precise portion of the total each is to receive. The Inter-American Commission shall ensure that the specified amounts are delivered to the petitioners. The petitioners acknowledge that all their claims arising in respect of this case have been satisfied. The Government shall take the measures necessary to assure that justice is done in this case, including through the investigation of the facts; continued efforts to detain those implicated who remain at liberty and to punish those responsible, in accordance with the international norms in effect in the State so that those found responsible are not left in impunity. A Commission of Verification and Follow-up shall monitor compliance with each of the agreed upon provisions, and submit a written report to the Commission twice a year.

### IV. CONCLUSIONS

19. In accordance with the foregoing, having placed itself at the disposal of the parties in accordance with Article 48.1.f of the Convention, having facilitated the agreement reached by the parties, and having determined that it was concluded on the basis of respect for the human rights recognized in the American Convention, the Commission:

20. Expresses its profound satisfaction with the successful conclusion of a friendly settlement agreement in this case.

21. Expresses its full appreciation to each of the parties, the State of Guatemala and the petitioners, for their efforts to collaborate together with the Commission in order to resolve the situation denounced. The Commission recognizes the steps taken by the Executive to dissolve the PACs as important in resolving this case, and as a valuable advance in favor of the protection of human rights in Guatemala. Both parties are commended for having entered into the process of friendly settlement with good faith and the will to try new approaches to resolve complex matters.

22. Decides to publish this report in the Annual Report to the General Assembly of the OAS.