

Institution:	Inter-American Court of Human Rights
Title/Style of Cause:	Chunima Human Rights Activists v. Guatemala
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Decided by:	President: Hector Fix-Zamudio
Dated:	15 July 1991
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Represented by:	APPLICANTS: Americas Watch and the Center of Justice and International Law
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THE PRESIDENT OF THE INTER-AMERICAN COURT OF HUMAN RIGHTS

HAVING SEEN:

1. The communication of the Inter-American Commission on Human Rights (hereinafter "the Commission") dated June 27, 1991, which was received at the Secretariat of the Court on the following day, whereby, pursuant to Articles 63(2) of the American Convention on Human Rights (hereinafter "the Convention") and 76 of the Regulations of the Commission, the Commission submits to the Inter-American Court of Human Rights (hereinafter "the Court"), "a request for provisional measures to protect the life and physical integrity" of the persons stipulated in the resolution attached to said communication relating to case 10.674;
2. The remainder of the related documentation which was received at the Secretariat of the Court via Sky Net-Worldwide Courier Network on July 2, 1991;
3. The aforementioned resolution of the Commission requesting the Court to adopt the following provisional measures:
 1. To request that the Government of Guatemala adopt the necessary measures to protect the lives, physical integrity, and security of the witnesses, relatives, human rights activists, and judges named in this resolution. In this context, it is recommended that the Government of Guatemala inform the human rights organizations affected of the name and phone number of a civilian official in the government who will be responsible for providing them with protection should the need arise.
 2. To request that the Government of Guatemala effectively ensure that human rights activists may return to their homes in Chunimá without fear of further persecution at the hands of civil patrols or the army.

3. To request that the Guatemalan authorities carry out the arrest warrants issued against the principal suspects, the aforementioned members of the civil patrol of Chumimá.

4. To request that the highest authorities of the Government of Guatemala make a public declaration to be published in the major media establishment in the country recognizing the legitimacy of the work of human rights monitors in Guatemala and acknowledging that their activities are protected not only by the American Convention on Human Rights, but also by the Constitution of the Republic of Guatemala.

5. To request the Court to hold a public hearing at the earliest opportunity so that the Commission may inform the Court in detail about the condition of defenselessness in which human rights monitors are working in the department of El Quiché, Guatemala. At the same time, the Guatemalan government will have the opportunity to inform the Court of the concrete measures adopted to clarify these crimes, punish the perpetrators, prevent future crimes of this nature, and ensure the security of human rights monitors and their relatives.

4. The Commission's request follows upon a petition brought on April 4 and 18 and May 2, 1991, by Americas Watch and the Center of Justice and International Law (CEJIL), which led to the opening of case N° 10.674 by the Commission. That petition included a special request to the Court for the adoption of provisional measures.

A. The petition is based on the following facts:

a. That on October 6, 1990, Sebastián Velásquez-Mejía, a human rights activist associated with the Mutual Support Group (GAM) and the Council of Ethnic Communities "We Are All Equal" (CERJ), was abducted by five plainclothesmen driving a blue pickup truck known to belong to the army. The men abducted Sebastián Velásquez after the local civil patrol chief, Manuel Perebal-Ajtzalam III, showed them where the victim was waiting for a bus on the highway near his village of Chumimá in the department of El Quiché. Manuel Perebal-Ajtzalam III had previously threatened Sebastián Velásquez' life.

b. That on October 8, 1990, the body of Sebastián Velásquez was found in Guatemala City. The autopsy stated that the victim died of blows to the thorax and abdomen.

c. That on December 10, 1990, a second human rights activist from Chumimá, GAM member Diego Ic-Suy, was shot dead in the Guatemala City bus terminal by two masked gunmen. Ic-Suy had been under surveillance by the civil patrols commanded by Manuel Perebal-Ajtzalam III before his murder.

d. That on January 21, 1991, a district court judge in Santa Cruz del Quiché issued a warrant for the arrest of Chumimá patrol chief Manuel Perebal-Ajtzalam III for the abduction and murder of Sebastián Velásquez. The police failed to carry out the order.e. That on February 17, 1991, Manuel Perebal-Ajtzalam III and another civil patrol leader from Chumimá, Manuel León-Lares, accompanied by four unidentified men, shot three more human rights activists from Chumimá, killing CERJ members Manuel Perebal-Morales and his father Juan Perebal-Xirúm, and leaving seriously injured his half brother, Diego Perebal-León, also a member of the CERJ. Manuel Perebal-Morales and Diego Perebal-León were witnesses to the abduction of Sebastián Velásquez. Their testimony before the district court judge in Santa Cruz del Quiché had prompted that court to order the arrest of Manuel Perebal-Ajtzalam III. In addition, Perebal-Ajtzalam III had threatened to kill the victims on several occasions before this incident.

f. That on February 18, 1991, the justice of the peace in Chichicastenango ordered the arrest of Manuel Perebal-Ajtzalam and Manuel León-Lares for the murder of Manuel Perebal-Morales and Juan Perebal-Xirúm, as well as the serious wounding of Diego Perebal-León. The police failed to carry out this order as well.

g. That on March 12, 1991, an attorney for the government's Human Rights Ombudsman evacuated fifteen members of the family of Diego Perebal-León from Chunimá because the patrol chiefs, who remained at large, continued to threaten relatives of the victims and human rights activists in the community.

5. The petitioners, pursuant to Article 63(2) of the American Convention, also urge the Commission to request the Court to adopt provisional measures to protect the lives and physical integrity of human rights monitors in Chunimá. The request for provisional measures is based on the following:

a. That human rights monitors of CERJ and GAM from the village of Chunimá are exposed to grave and continuous danger. In the last nine months five human rights monitors have been killed and one has been seriously wounded.

b. That as result of this violence, fifteen Chunimá residents, CERJ members and their relatives have fled to the CERJ office in Santa Cruz del Quiché, in early March 1991, to take refuge.

c. The source of the danger faced by human rights monitors in Chunimá has been the civil patrols, in particular Manuel Perebal-Ajtzalam III and Manuel León-Lares, for whom arrest warrants have been issued but not carried out.

(i) On April 17, 1991, the chief of the National Police of Santa Cruz del Quiché visited the CERJ office to see if any of the family members who have taken refuge there—all of them relatives of Diego Perebal-León, who was shot and seriously injured in one of the incidents—would accompany them to Chunimá to help them identify the suspects. The family members declined out of fear.

(ii) Nonetheless, on April 26, 1991, the police decided to travel to Chunimá to execute the arrest warrants. Thirty policemen went on the mission, some National Police and some Treasury Police. They located the houses of the suspects, but did not find them at home. On their way out of the village, they were confronted by a very large group of armed patrollers, led by the chiefs Manuel Perebal-Ajtzalam III and Manuel León-Lares, and including patrollers from Chunimá and several other communities. The patrollers detained the police there for two hours, and only let them leave after extracting a promise from the police that they would never come to Chunimá again.

(iii) On June 13, 1991, the police again attempted to arrest the suspects in Chunimá. Although they encountered the suspects, they were unable to arrest them, apparently because the suspects alerted other members of the patrols, who joined with them in resisting the arrests.

d. Recent incidents against human rights monitors include the following:

(i) At about 8:30 p.m., on April 14, 1991, three unidentified men stabbed to death CERJ member Camilo Ajquí-Jimón outside his house in the village of Potrero Viejo, Municipality of Zacualpa, in the department of El Quiché. According to the testimony of the victim's widow, the

three men dragged him from his home, threatening to kill her as well if she did not stay in the house, and killed him just behind the house. The victim was nearly decapitated. According to information received by the Commission, CERJ members in the village had received threats from civil patrollers and military commissioners because of the CERJ's resistance to the civil patrols.

(ii) At 7:30 a.m., April 15, 1991, CERJ President Amílcar Méndez was threatened and assaulted in Guatemala City by four plainclothesmen with dark sunglasses. The men approached Mr. Méndez as he was leaving the restaurant Pollo Campero on the Calzada Roosevelt in Zone 11 of Guatemala City. One of them told Mr. Méndez he was going to die, and two tried to grab him. The intervention of passersby, however, caused the men to leave Mr. Méndez and flee the scene.

(iii) According to information received recently by the Commission, anonymous flyers have been distributed in Chunimá calling the CERJ a guerrilla front and naming residents of the village who belong to the organization.

(iv) Finally, on June 13, after the police had tried and failed for the second time to arrest civil patrol chiefs Perebal-Ajtzalam III and León-Lares, Manuel Perebal-Ajtzalam III and his brother, Tomás Perebal-Ajtzalam, attacked a member of the GAM in Chunimá, apparently as a reprisal. Perebal-Ajtzalam III and his brother raided the house of GAM member Tomás Velásquez-Ajtzalam and beat and kicked him savagely. Perebal-Ajtzalam III reportedly fired his rifle in the air to further intimidate his victim.

6. A list of the names of those for whom provisional measures by the Court is requested is as follows:

- Diego Perebal-León, witness to the abduction of Sebastián Velásquez-Mejía, witness to the murder of his father Juan Perebal-Xirúm and brother Manuel Perebal-Morales, was hospitalized with severe injuries as a result of gunshot wounds inflicted on February 17, 1991. Mr. Perebal-León has been repeatedly threatened by the civil patrol chiefs of Chunimá and was among five CERJ members who fled the village from October 6 - November 16, 1991. Mr. Perebal-León, who is now paralyzed, and the surviving members of his family, have taken refuge in the CERJ office in Santa Cruz del Quiché since early March 1991.

- José Velásquez-Morales, cousin of Sebastián Velásquez-Mejía, a complainant in the criminal case against his killers, and the man who replaced Mr. Sebastián Velásquez as the CERJ delegate in Chunimá, has suffered repeated threats and harassment at the hands of the army and civil patrols and was among five CERJ members who fled Chunimá from October 6 - November 16, 1990.

- Rafaela Capir-Pérez, the common-law wife of Sebastián Velásquez-Mejía and the original complainant in the criminal case against his killers. Ms. Capir-Pérez and the couple's children fled to the GAM office in Guatemala City on October 6, 1990, and returned to Chunimá on November 16, 1990.

- Manuel Suy-Perebal, witness to the abduction of Sebastián Velásquez-Mejía, was among the five CERJ members who fled Chunimá from October 6 - November 16, 1990. He has been repeatedly threatened by the civil patrols.

- José Suy-Morales is one of the five CERJ members who fled Chunimá from October 6 - November 16, 1990. He has been repeatedly threatened by the civil patrols.

- Amílcar Méndez-Urizar, President of the CERJ, has been the victim of repeated death threats. Mr. Méndez is one of Guatemala's most prominent defenders of human rights.
- Justina Tzoc-Chinol, member of the board of directors of the CERJ.
- Manuel Mejía-Tol, member of the board of directors of the CERJ.
- Miguel Sucuqui-Mejía, member of the board of directors of the CERJ.
- Juan Tum-Mejía, caretaker at the CERJ office, son of CERJ member María Mejía, who was murdered on March 17, 1990, in Parraxtut, following death threats and harassment against her family for their membership in the CERJ.
- Claudia Quiñones, secretary of the CERJ.
- Pedro Ixcaya, CERJ member living in the CERJ office following the May 1, 1990, murder of his cousin, José María Ixcaya, who was the CERJ leader in La Fe, Sololá. Pedro Ixcaya has received repeated death threats from civil patrol chiefs.
- Roberto Lemus-Garza, judge at the Second Criminal Court in Santa Cruz del Quiché, who investigated murders of human rights monitors from Chunimá and issued an arrest warrant for Manuel Perebal-Ajtzalam III for the abduction and murder of CERJ leader Sebastián Velásquez-Mejía. Judge Lemus has also issued warrants for patrollers in other cases.
- María Antonieta Torres-Arce, justice of the peace in Sololá, who, on February 18, 1991, as acting justice of the peace in Chichicastenango, El Quiché, issued arrest warrants for Manuel Perebal-Ajtzalam III and Manuel León-Lares for the murder of Juan Perebal-Xirúm and Manuel Perebal-Morales and the severe wounding of Diego Perebal-León, all active members of CERJ.

CONSIDERING:

1. Guatemala is a State Party to the American Convention, whose Article 1(1) spells out the obligation of all the States Parties to respect the rights and freedoms recognized in that treaty and to ensure their free and full exercise to all persons subject to their jurisdiction;
2. Guatemala ratified the American Convention on May 25, 1978, and accepted the compulsory jurisdiction of the Court on March 9, 1987, in accordance with Article 62 of the Convention;
3. 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 cases that have not yet been submitted to it;
4. Article 23(4) of the Rules of Procedure of the Court provides that:
If the Court is not sitting, the President shall convoke it immediately. Pending the meeting of the Court, the President, in consultation with the Permanent Commission or with the judges, if possible, shall call upon the parties, whenever necessary, to act so as to permit any decision of the Court regarding the request for provisional measures to have its appropriate effect.
5. Guatemala is under the obligation to adopt whatever measures are necessary to preserve the life and physical integrity of those persons whose rights could be threatened.

THEREFORE:

THE PRESIDENT OF THE INTER-AMERICAN COURT OF HUMAN RIGHTS,

Taking into account Article 63(2) of the American Convention on Human Rights and exercising the powers conferred upon him by Article 23(4) of the Rules, and after consultation with the judges of the Court,

RESOLVES:

1. To order the Government of Guatemala to adopt without delay all necessary measures to protect the right to life and the physical integrity of DIEGO PEREBAL-LEÓN, JOSÉ VELÁSQUEZ-MORALES, RAFAELA CAPIR-PÉREZ, MANUEL SUY-PEREBAL, JOSÉ SUY-MORALES, AMILCAR MÉNDEZ-URIZAR, JUSTINA TZOC-CHINOL, MANUEL MEJÍA-TOL, MIGUEL SUCUQUI-MEJÍA, JUAN TUM-MEJÍA, CLAUDIA QUIÑONES, PEDRO IXCAYA, ROBERTO LEMUS-GARZA and MARÍA ANTONIETA TORRES-ARCE, in strict compliance with its obligation to respect and guarantee human rights under Article 1(1) of the Convention.
2. To convene a session of the Inter-American Court of Human Rights from July 29 to 31, 1991, at its seat in San José, Costa Rica, in order to take up the Commission's request for provisional measures and this order.
3. To convoke the Government of Guatemala and the Inter-American Commission of Human Rights to appear, through their representatives, at a public hearing to be held on this matter at 3:00 p.m. on July 29, 1991, at the seat of the Court.

Héctor Fix-Zamudio
President

Manuel E. Ventura-Robles
Secretary