

TECHNICAL INFORMATION SHEET
PETITION N° 318-05 GERÓNIMO GÓMEZ LÓPEZ
FRIENDLY SETTLEMENT REPORT N° 68/12
TOTAL COMPLIANCE
(MEXICO)

I. SUMMARY OF THE CASE

Victim (s): Gerónimo Gómez López

Petitioner (s): “Fray Bartolomé de las Casas” Human Rights Center

State: Mexico

Report on Friendly Settlement Agreement No.: 68/12, published on July 17, 2012

Related Rappporteurship: Rights of Indigenous Peoples

Topics: Humane treatment/ personal liberty/ judicial guarantees/ right to privacy/ judicial protection/ enforced disappearance

Facts: The petitioner alleged that Gerónimo Gómez López, an indigenous Tsotsil, was unlawfully detained and tortured for three days by police of the Municipality of Simojovel. The petitioner also alleged that while confined in the municipal jail, Mr. Gómez López was not allowed to communicate with his family members and was never brought before a competent judicial authority at any time during his detention. The petitioner also asserted that Gerónimo Gómez López had allegedly disappeared while in the custody of State agents, under circumstances that to this date have never been explained. It added that these events were never investigated by the State and those responsible were never punished.

Rights Alleged: The petitioner alleged that the State had violated the rights set out in Articles 4 (right to life), 5 (right to humane treatment), 7 (right to personal liberty), 8 (right to a fair trial), 11 (right to privacy), 17 (rights of the family) and 25 (right to judicial protection) of the American Convention on Human Rights (hereinafter “the Convention” or “the American Convention”), in relation to Article 1.1 of the same international instrument. Similarly, they maintained the international responsibility of the State for alleged violations of Articles I, II, III, IV, XI and XIV of the Inter-American Convention on Forced Disappearance of Persons.

II. PROCEDURAL ACTIVITY

1. On October 23, 2010, the parties signed a Friendly Settlement Agreement, and on the same date, signed a working memorandum for compliance with said agreement.

2. On July 17, 2012, the IACHR approved the friendly settlement agreement signed by the parties in Report No.68/12.

III. ANALYSIS OF COMPLIANCE WITH THE CLAUSES OF THE FRIENDLY SETTLEMENT AGREEMENT

Clause of Agreement	Status of Compliance
1.- PURSUIT OF JUSTICE:	
<p>A.- The Mexican State, acting through the State Executive, shall appoint a prosecutor devoted exclusively to investigate and gather the preliminary inquiry instituted into the forced disappearance of Mr. Gerónimo Gómez López; the prosecutor will be equipped with a support team and sufficient material resources, and will be attached to the Office of the Special Prosecutor for the Protection of Nongovernmental Organizations for the Defense of Human Rights (FEPONGDDH). Operating by the principles of legality, objectivity, certainty and efficiency, the prosecutor will undertake an investigation into the facts. Once the nature of the offense has been verified and the necessary legal evidence has been gathered, he will make a determination –in strict accordance with the law and with full respect for human rights- and prosecute the person or persons responsible.</p>	Total ¹
<p>B.- The Mexican State, through the Executive of the State of Chiapas, hereby pledges to keep Mrs. Ofelia Díaz Pérez constantly informed of the status of the case and of the evidence collected in the inquiry. This report shall be done in writing and by way of her accredited representatives. She shall be advised of each and every piece of evidence gathered and examined, to show the evidence put together in connection with the investigation, the timetable of activities being conducted to that end, and to ensure that it concurs with the time period allowed to complete the present investigation, which shall be no longer than one (1) year from the date on which the Friendly Settlement Agreement is signed.</p>	Total ²
2.- REPARATIONS:	
I.- Pecuniary Damages:	
<p>A) <i>Loss of Profit:</i> The Government of the State shall pay Mrs. Ofelia Díaz Pérez the sum of \$180,000 (one hundred eighty thousand Mexican pesos) as <i>loss of profit</i>, irrespective of the outcome of the investigation, as the prosecution of the case is still ongoing and it would be inappropriate to determine at this point just how far the investigation will reach.</p>	Total ³
<p>B) <i>Consequential Damages:</i> The State Executive undertakes to treat Mrs. Ofelia Díaz Pérez in a dignified and respectful manner, and to grant her a lifetime monthly pension. Accordingly, the head of the State Government shall send the Chiapas State Congress a proposal for a decree, to be published in the State's Official Newspaper, under which she is paid monthly financial assistance in the form of a lifetime pension for the sum of \$10,000.00 (ten thousand Mexican pesos per month). This is a personal pension inalienable, non-attachable and non-transferable.</p>	Total ⁴

¹ See IACHR, Report No.68/12, Petition No.318-05, Friendly Settlement, Gerónimo Gómez López, Mexico, July 17, 2012.

² See IACHR, Report No.68/12, Petition No.318-05, Friendly Settlement, Gerónimo Gómez López, Mexico, July 17, 2012.

³ See IACHR, Report No.68/12, Petition No.318-05, Friendly Settlement, Gerónimo Gómez López, Mexico, July 17, 2012.

⁴ See IACHR, Report No.68/12, Petition No.318-05, Friendly Settlement, Gerónimo Gómez López, Mexico, July 17, 2012.

<p>Non-Pecuniary Damages: II.- Moral Damages: Likewise, the Mexican State, through the Government of the State of Chiapas, shall provide the sum of \$150,000.00 (one hundred fifty thousand Mexican pesos) for the purchase of a property in the name of Mr. Gerónimo Gómez López’ children – Antonio, Ana Erika and Carlos Jerónimo- all minors. The amount in question was determined by considering the maximum authorized amount under the housing programs that the State Government now offers for the rural area and shall be pledged in the notarized deed made out in the name of the children of C. Ofelia Díaz Pérez. This commitment is without prejudging the outcome of the investigation, as the prosecution of the case is still ongoing and it would be inappropriate to determine at this point just how far the investigation will reach.</p>	<p>Total ⁵</p>
<p>C) Other Forms of Support: The Mexican State undertakes to provide the following to Mrs. Ofelia Díaz Pérez and to Mr. Gerónimo Gómez López’ three minor children - Antonio, Ana Erika and Carlos Jerónimo: i. Medical and psychological care. Medical and psychological care shall be provided free of charge by enrolling them in a medical insurance plan in the Chiapas public health institutions. ii. Educational assistance up to university level. Antonio, Ana Erika and Carlos Jerónimo, the children of Mr. Gerónimo Gómez López, will be given scholarships for their studies.</p>	<p>Total ⁶</p>
<p>3.- MEASURES OF SATISFACTION AND NON-REPETITION:</p>	
<p>Under this heading, and at the petitioners’ request, the Mexican State, through the Chiapas State Executive, will stage a public ceremony –preferably in the municipal seat of Simojovel, Chiapas- as a measure to ensure that events like this do not recur; at the ceremony, public apologies shall be made in which the state acknowledges responsibility for the lack of a conclusive investigation, the negligence on behalf of the authorities in charge of the investigation, and the violations of due process which allowed the perpetrators to go unpunished, denied the victims justice and truth, and resulted in violations of the human rights of the victim’s next of kin. The State must ensure that at least three media outlets with national coverage and at least three with state coverage are present for the ceremony.</p>	<p>Total ⁷</p>
<p>Furthermore, news of the ceremony is to be reported in the Official Newspaper of the State of Chiapas, in three consecutive issues. In addition to the wide coverage that this public pardon ceremony will receive in the media, there shall be guarantees that the ceremony will be widely covered and disseminated throughout the entire Radio and Television System run by the Government of Chiapas State.</p>	<p>Total ⁸</p>
<p>In addition, the Government of the State of Chiapas shall institute the necessary administrative and/or criminal proceedings against any present and/or former public servants suspected of bearing any responsibility in this matter.</p>	<p>Total ⁹</p>

⁵ See IACHR, Report No.68/12, Petition No.318-05, Friendly Settlement, Gerónimo Gómez López, Mexico, July 17, 2012.

⁶ See IACHR, Report No.68/12, Petition No.318-05, Friendly Settlement, Gerónimo Gómez López, Mexico, July 17, 2012.

⁷ See IACHR, Report No.68/12, Petition No.318-05, Friendly Settlement, Gerónimo Gómez López, Mexico, July 17, 2012.

⁸ See IACHR, Report No.68/12, Petition No.318-05, Friendly Settlement, Gerónimo Gómez López, Mexico, July 17, 2012.

⁹ See IACHR, Report No.68/12, Petition No.318-05, Friendly Settlement, Gerónimo Gómez López, Mexico, July 17, 2012.

<p>Once all the evidence has been examined and the necessary measures taken, if the results of the investigation show that Mr. Gerónimo Gómez López was the victim of a enforced disappearance, the Mexican State shall be ready to issue a finding and a publicly acknowledgement of its own responsibility. As a measure to ensure that events like this do not recur, the Mexican State undertakes to name some public construction in Gerónimo Gómez López' memory. The choice shall be by mutual agreement with the petitioners and shall feature a summary of what happened and a reference to the State's responsibility for the human rights violations thereby committed.</p>	<p>Total ¹⁰</p>
<p>4.- ADOPTION OF LEGISLATIVE MEASURES TO PREVENT AND PUNISH FORCED DISAPPEARANCE:</p>	
<p>Inasmuch as this crime is condemned as a denial of the objectives of the United Nations Charter and a serious and manifest violation of human rights and fundamental freedoms, at its own initiative the Chiapas state executive sent a bill to the local legislature on September 11, 2009, to enact a law to prevent forced disappearance and punish the authors and accomplices of this crime and anyone who aids and abets them in any way; the law will also establish the measures for full reparations for the victims. It is called the Law to Prevent and Punish Forced Disappearance of Persons in the State of Chiapas, and was approved through Decree No. 319, published in the State's Official Gazette, Issue No. 189, Section Two, dated September 23, 2009.</p>	<p>Total ¹¹</p>
<p>The parties agree that this Friendly Settlement Agreement shall be submitted to the IACHR for ratification. They also agree that once each and every point in this memorandum regarding Petition P-318-05 is carried out, the IACHR shall be so informed, so that the case may be closed if it meets with the petitioners' satisfaction.</p>	<p>Total ¹²</p>

IV. LEVEL OF CASE COMPLIANCE OF THE CASE

3. The Commission declared total compliance with the case and ceased monitoring the friendly settlement agreement in its Report No.68/12.

V. INDIVIDUAL AND STRUCTURAL OUTCOMES OF THE CASE

A. Individual outcomes of the case:

- The State of Chiapas paid compensation to Mrs. Ofelia Díaz Pérez in the amount of \$180.000 Mexican pesos, as reparations for the damages under the heading consisting of *loss of profit*.
- The State paid the sum of \$10.000 pesos in favor of Mrs. Ofelia Díaz as *consequential damages*.
- The State of Chiapas paid the sum of \$150,000 Mexican pesos for the purchase of a property in the name of Gerónimo Gómez López's minor children - Antonio, Ana Erika and Caros Jerónimo.
- The Chiapas State Government Health Institute enrolled Mrs. Ofelia Díaz Pérez and her three children in the *Seguro Popular*.
- The State granted study scholarships for Mr. Gerónimo Gómez's three children.

¹⁰ See IACHR, Report No.68/12, Petition No.318-05, Friendly Settlement, Gerónimo Gómez López, Mexico, July 17, 2012.

¹¹ See IACHR, Report No.68/12, Petition No.318-05, Friendly Settlement, Gerónimo Gómez López, Mexico, July 17, 2012.

¹² See IACHR, Report No.68/12, Petition No.318-05, Friendly Settlement, Gerónimo Gómez López, Mexico, July 17, 2012.

- The State of Chiapas paid the sum of \$60,000 Mexican pesos representing the lifetime pension from the months of March to August 2011.
- The State of Chiapas paid \$5,380 Mexican pesos to the minors Luis Antonio, Ana Erika and Carlos Gerónimo, surname Gómez Díaz, the children of Mr. Gerónimo Gómez López, for scholarships corresponding to the months of March to September 2011.
- The State performed a public ceremony of acknowledgement of responsibility in relation to the lack of investigation and violations of due process.

B. Structural outcomes of the case:

- The Law for the Prevention and Punishment of Forced Disappearance of Persons in the State of Chiapas was approved through Decree No. 319, published in the State's official gazette, issue No. 189, section two, dated September 23, 2009.
- On September 22 and 23, 2011, respectively, RODOLBERTO SANTOS RAMOS and RODOLFO PÉREZ RUIZ were brought before the First Criminal Judge of that Judicial District, with its seat in Cintalapa de Figueroa, Chiapas. They were detained in the "El Amante" Convict Social Rehabilitation Center No. 14, as potential perpetrators of the crime of forced disappearance committed against Gerónimo Gómez López. The forced disappearance and surrounding events occurred in the municipality of Simojovel de Allende, Chiapas State. Arrest warrant 166/2011 was thus partially carried out.