

August 19, 2014

Re: Case No. 12,739
María Inés Chinchilla Sandoval *et al.*
Guatemala

Mr. Secretary:

On behalf of the Inter-American Commission on Human Rights, I have the honor to submit to the jurisdiction of the Inter-American Court of Human Rights case 12,739 – María Inés Chinchilla Sandoval *et al. v. the Republic of Guatemala* (hereinafter “the State”, “the Guatemalan State” or “Guatemala”).

The present case concerns the violations of María Inés Chinchilla Sandoval’s human rights as a result of multiple actions and omissions that culminated in her death, all while she was an inmate at the *Centro de Orientación Feminina* (COF). The Commission determined that for the duration of Mrs. Chinchilla Sandoval’s incarceration, the Guatemalan State had a special duty as guarantor of her rights to life and personal integrity, despite which it failed to conduct the full testing necessary to determine what illnesses she was suffering from and failed to provide all the specific treatment and care she required. Although Mrs. María Inés Chinchilla Sandoval was a diabetic, the State failed to provide the periodic testing, equipment, special medications, constant dietary vigilance and care that her diabetic condition required. On the contrary, Mrs. Chinchilla had to supply her own medications and food, relying on her own means or her family. The result was that her medical conditions deteriorated; one of her legs had to be amputated and her diabetic retinopathy and occlusive atherosclerosis worsened. Likewise, despite the special obligations incumbent upon the State when it incarcerates a person with disabilities, the Guatemalan State did not provide her with the conditions necessary to protect her rights, especially when one considers that Mrs. Chinchilla Sandoval was confined to a wheelchair and had other special needs owing to her condition. In fact, on the day of her death, because she had no one to assist her she fell from her wheelchair down the stairs and was not provided with adequate medical treatment or the hospital care required in an emergency situation.

Mr.

Pablo Saavedra Alessandri, Secretary
Inter-American Court of Human Rights
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San José, Costa Rica

Enclosures

The Commission considered the fact that although Mrs. Chinchilla had applied several times for “remission of sentence” citing her deteriorating health and the problems with the treatment she was receiving, she did not receive effective judicial protection. Furthermore, the investigation undertaken by the State did not determine whether the established causes of her death (“pulmonary edema” and “hemorrhagic pancreatitis”) were the result of a lack of proper medical care and the detention conditions in which Mrs. Chinchilla was held. To this day, the various types of blame that may attach to her death have never been established.

The State ratified the American Convention on Human Rights on May 25, 1978, and accepted the contentious jurisdiction of the Court on March 9, 1987.

The Commission has designated Commissioner James Cavallaro and Executive Secretary Emilio Álvarez Icaza L. as its delegates. Likewise, Elizabeth Abi-Mershed, Deputy Executive Secretary, Silvia Serrano Guzmán and Jorge Humberto Meza F., attorneys with the Executive Secretariat of the IACHR, have been designated to serve as legal advisors.

In accordance with Article 35 of the Rules of Procedure of the Inter-American Court, the Commission is enclosing a copy of Merits Report No. 7/14, prepared in compliance with Article 50 of the American Convention, as well as a copy of the entire file of the case before the Inter-American Commission (Appendix I) and the annexes used in preparing report 7/14 (Annexes). The State was notified of the Merits Report by a communication dated May 19, 2014, in which it was given two months to report on its compliance with the recommendations made therein. The Guatemalan State submitted a report in which it stated that it had not committed the violations of the American Convention declared in the Merits Report and hence was not called upon to order reparations of any kind for Mrs. Chinchilla.

The Commission, therefore, decided to submit this case to the jurisdiction of the Inter-American Court because of the need to obtain justice for the victim. The Inter-American Commission is submitting to the Court’s jurisdiction all the facts and human rights violations described in Merits Report 7/14.

Accordingly, the Commission is asking the Court to adjudge and declare the international responsibility of the State of Guatemala for the following:

1. Violation of the right to life protected under Article 4(1) of the American Convention, in conjunction with Article 1(1) thereof, to the detriment of Mrs. María Inés Chinchilla Sandoval.
2. Violation of the right to personal integrity, protected under Article 5(1) of the American Convention, in conjunction with Article 1(1) thereof, to the detriment of Mrs. María Inés Chinchilla Sandoval.

3. Violation of the judicial guarantees and the right to judicial protection recognized in articles 8(1) and 25 of the American Convention, in conjunction with articles 1(1) and 2 thereof, to the detriment of Mrs. María Inés Chinchilla Sandoval and her next of kin.

The Commission is also asking the Court to order the following reparations:

1. Provide full redress for the human rights violations declared in the report, to include both the material and moral aspects.
2. Conduct and complete a thorough, impartial, effective and swift investigation to establish the blame –criminal and otherwise- for the violations established in the report.
3. Adopt measures of non-repetition, to include the following: i) the guarantee of adequate and prompt access to medical care in the *Centro de Orientación Femenino*; ii) the guarantee of adequate prison conditions for disabled persons incarcerated in the *Centro de Orientación Femenino*, consistent with the standards described in the present report; iii) institutional strengthening and training of judicial authorities charged with enforcement of sentences, to ensure that they effectively perform their role as guarantors of the rights of persons deprived of liberty; and iv) regulation of a rapid and effective judicial remedy that can be used to secure protection of the rights to life and to humane treatment when the health needs of inmates so require.

Apart from the need to obtain justice owing to the failure to comply with the recommendations made in the merits report, the Commission believes that the case raises questions of inter-America *ordre public*. Specifically, the case will give the Court an opportunity to develop and elaborate upon its case law on the subject of the rights to life, to personal integrity and to judicial protection enjoyed by persons deprived of their liberty who require specific medical treatment because of the particular nature of their illness and/or who have a disability. This case will also give the Court an opportunity to build upon its case law on the subject of the standards of due diligence required when investigating cases in which a person died while in the custody of the State because of a lack of proper medical attention, and regarding the extent of the duty to punish health professionals, court authorities and prison officials for failure to provide proper medical care and to ensure adequate detention conditions.

Because the issues that this case raises have a significant impact on inter-American *ordre public*, in keeping with Article 35(1)(f) of the Rules of Procedure of the Inter-American Court, the Inter-American Commission will offer the following statements by the following experts:

An expert, whose name will be reported shortly, who will make a statement on what the extent and nature of the States' obligations are with respect to the health of persons deprived of liberty, based on international human rights law. Specifically, the expert will focus on the States' obligations in the case of

inmates who require specialized treatment, diagnosis and follow-up that go beyond emergency or primary health care.

An expert, whose name will be reported shortly, who will make a statement on the international human rights standards to be considered when examining whether a State complied with its obligation to investigate, with due diligence, the various kinds of blame attending the death of a person deprived of liberty, when the lack of proper medical treatment is suspected as a possible cause of death.

An expert, whose name will be reported shortly, who will make a statement on the extent and nature of the States' obligations vis-à-vis inmates with disabilities. Among the issues the expert will address will be the specific obligations that, under international human rights standards, were incumbent upon the State owing to Mrs. Chinchilla's specific disability.

The curriculums vitae of the experts offered will be included in the annexes to merits report 7/14.

Finally, the name of the organizations that served as petitioners in the case before the Commission and their particulars are as follows:

Instituto de Estudios Comparados en Ciencias Penales de Guatemala
ICCPG


Please accept renewed assurances of my highest regards,

Signed in the original

Emilio Alvarez Icaza L.
Executive Secretary