

MONITORING FORM FOR REPORT ON FRIENDLY SETTLEMENT Nº 30/12
CASE 12.546
JUAN JACOBO ÁRBENZ GUZMÁN
(Guatemala)

I. SUMMARY OF THE CASE

Victim (s): Juan Jacobo Arbenz
Petitioner (s): International Human Rights Law Clinic-American University, Erick Arbenz
State: Guatemala
Beginning of the negotiation date: October 20, 2006
FSA signature date: May 19, 2011
Report on Friendly Settlement Agreement: **30/12**, published on March 20, 2012
Estimated length of the negotiation phase: 6 years
Associated Rapporteurship: MVJ
Topics: Democratic institutions/Private property

Facts: By way of background, Jacobo Arbenz Guzmán was elected constitutional President of Guatemala in 1951 and served in that position until June 27, 1954, the date he was overthrown by a military coup that was led by Colonel Carlos Castillo Armas and directed from Honduras by the Central Intelligence Agency (CIA) of the United States of America. Juan Jacobo Arbenz and his family, made up at that time of his wife, María Cristina Vilanova de Arbenz, and their children, Juan Jacobo, María Leonora, and Arabella, were expelled from the country and forced to live in exile. Juan Jacobo Arbenz Guzmán died in exile on January 27, 1971. The *de facto* government confiscated the property of Mr. Arbenz Guzmán and his family. The government junta issued Decree No. 2 on June 2, 1954, and then the dictator Castillo Armas promulgated a second decree, No. 68. Article 1 of Decree No. 2 ordered seizing the assets and freezing and immobilizing the deposits, creditor accounts, securities, and current accounts of those whose names appeared on the lists drawn up by the Ministry of Finance and Public Credit; President Arbenz's name was included. Article 1 of Decree No. 68 established that all securities, stocks, rights, assets, and property of all types that for any reason were under the control, possession, tenure, and use of the former officials and employees on the list mentioned in Decree 2, with no exception, would be adjudicated to the State as compensation. The property confiscated included the farm "Finca el Cajón," which belonged to the Arbenz family. Both Mr. Arbenz Guzmán while alive and his next of kin after his death called for the return of their properties.

Rights asserted: The petition alleged that the State was responsible for violating Articles 21 (right to property) 10 (right to compensation) and 24 (right to equal protection) of the American Convention on Human Rights, to the detriment of Juan Jacobo Arbenz Guzmán; his spouse, María Cristina Vilanova de Arbenz; and their children, Juan Jacobo, María Leonora, and Arabella (hereinafter, "alleged victims"). Subsequently, it was alleged that Articles 7 (right to personal liberty), 14 (right of reply), 25 (right to judicial protection), and 5 (right to humane treatment), all of the American Convention, were violated as well. These alleged violations of the rights of the Arbenz family stemmed from the overthrow of the constitutionally elected President Juan Jacobo

Arbenz Guzmán in a military coup, which forced the Arbenz family into exile and led to the confiscation of their property by the military dictatorship.

II. PROCEDURAL ACTIVITY

1. On May 19, 2011, the parties signed the friendly settlement agreement.
2. On March 20, 2012, the Commission approved the friendly settlement agreement by report No. 45/06.

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

Agreement Clause	Compliance Status
<p>1) RESPONSIBILITY OF THE STATE The State of Guatemala recognizes and accepts the international responsibility stemming from the breach of its obligation to ensure, respect and protect the human rights of the victims to a fair trial, property, equal protection and judicial protection, protected in the American Convention on Human Rights, and violated to the detriment of former President Juan Jacobo Arbenz Guzmán, his wife María Cristina Vilanova and their children Juan Jacobo, María Leonora and Arabella, all with the last name Arbenz Vilanova.</p>	Declarative clause
<p>2) FINANCIAL REPARATION The parties to this Friendly Settlement Agreement recognize the mutual willingness evinced by the parties in agreeing on an amount that allows for financial reparation of the Arbenz Vilanova family for the damages and human rights violations that were caused, based on the facts of the case before the Illustrious Inter-American Commission on Human Rights. After a valuation conducted on February 21, 2007 by the Office of Land Registry and Real Estate Assessments of the Ministry of Public Finance of property number 3443 page 76 of book 40 of Escuintla of the General Registry of Property, known as “Finca El Cajon,” located in the Municipality of Santa Lucia Cotzumalguapa of the Department of Escuintla, the State of Guatemala undertakes to pay the sum of [...] for financial reparation, to former President Juan Jacobo Arbenz Guzmán, his wife María Cristina Vilanova and their children Juan Jacobo, María Leonora and Arabella, all with the last name Arbenz Vilanova, which covers property damages and psychological damage of pain and suffering. The State of Guatemala undertakes to make the payment by means of bank transfer, immediately following the signing of the Friendly Settlement Agreement and after the petitioners submit the notarized certificate of identification of the beneficiaries and Doctor Erick Jacobo Arbenz Canales’ special power-of-attorney authorizing him to sign the instant friendly settlement agreement and to receive the payment of financial reparation; these documents must have all of the approvals as required by law for them to have full legal validity pursuant to Guatemalan law. At the time of the transfer, the petitioner undertakes to sign an administrative</p>	Total¹

¹ IACHR, Report No. 30/12, Case 12.546, Friendly Settlement, Juan Jacobo Árbenz Guzmán, Guatemala, March 20, 2012.

certificate of receipt in full and final settlement releasing the State of Guatemala of further obligations.	
3) OTHER FORMS OF REPARATION	
<p>a) Public Recognition of International Responsibility: The State of Guatemala undertakes to dignify the memory of former President Juan Jacobo Arbenz Guzmán by holding a public ceremony of recognition of the State’s international responsibility, which shall take place at the National Palace of Culture and shall be presided over by the President of the Republic.</p> <p>The State of Guatemala undertakes to make the arrangements with the appropriate institutions to install a temporary exhibition of photographs of the former President Arbenz Guzmán and his family at the National Palace of Culture, which shall be subject to internal regulations and require approval of the appropriate authorities.</p> <p>The next of kin of former President Arbenz Guzmán undertake to provide the family photographs that they have kept in their possession and authorize the reproduction, exhibition and, as necessary, the publication thereof. The family members of former President Arbenz shall continue to own the original photographs, except any ones that they may decide to donate for exhibition.</p>	Total²
<p>b) Letter of Apology: The State of Guatemala undertakes to write a letter of apology, which shall be delivered by the President of the Republic to the family members of former President Arbenz Guzmán at the ceremony of recognition of responsibility that shall take place. This letter shall be signed by the President and shall be published in the daily newspapers El Diario de Centro America and El Periodico.</p>	Total³
<p>c) Dedicating a room at the National Museum of History: The State of Guatemala undertakes to permanently dedicate a room of the National Museum of History by naming it after Jacobo Arbenz Guzmán.</p> <p>On November 5, 2010, the State of Guatemala dedicated the “Jacobo Arbenz Guzmán Reading Room” at the National Museum of History and, consequently, the petitioner accepts this act as part of the moral reparation in the instant case, as said act has already taken place.</p>	Total⁴
<p>d) Revision of the National Core Curriculum: The State of Guatemala undertakes to make the necessary arrangements with the Ministry of Education to revise the National Core Curriculum, specifically with regard to the government of then Constitutional President of the Republic of Guatemala, Coronel Juan Jacobo Arbenz Guzmán and the events that took place at the time of the 1954 military coup against him; once the revision is carried out by the State and the family of former President Arbenz Guzmán, the State shall take measures to implement the proposed changes.</p>	Total⁵
<p>e) Certificate Program in Human Rights, Multiculturalism and Reconciliation with Indigenous Peoples: The State of Guatemala undertakes to create a “Certificate Program in Human Rights, Multiculturalism and Reconciliation with Indigenous Peoples,” with the academic support of the University of San Carlos de Guatemala, which will entail two classes: one class</p>	Total⁶

² IACHR, Report No. 30/12, Case 12.546, Friendly Settlement, Juan Jacobo Árbenz Guzmán, Guatemala, March 20, 2012.

³ IACHR, Report No. 30/12, Case 12.546, Friendly Settlement, Juan Jacobo Árbenz Guzmán, Guatemala, March 20, 2012.

⁴ IACHR, Report No. 30/12, Case 12.546, Friendly Settlement, Juan Jacobo Árbenz Guzmán, Guatemala, March 20, 2012.

⁵ IACHR, Report No. 30/12, Case 12.546, Friendly Settlement, Juan Jacobo Árbenz Guzmán, Guatemala, March 20, 2012.

⁶ IACHR, Report No. 30/12, Case 12.546, Friendly Settlement, Juan Jacobo Árbenz Guzmán, Guatemala, March 20, 2012.

<p>shall cover the western region, be based out of the Department of Quetzaltenango and include San Marcos, Retalhuleu, Suchitepequez, Quiche and Solola; the other class shall cover the eastern region, be based out of Zacapa and include Chiquimula, Jalapa, El Progreso and Jutiapa.</p> <p>This certificate program is aimed at public officials of executive and judicial branch agencies, other mid-level government officials and indigenous leaders. It shall be held in person on a biweekly basis for 10 sessions. The program shall focus on topics that serve to examine inequality among the Maya, Garifuna, Xinka and Mestizo peoples, in order to make a difference in eliminating discriminatory practices.</p>	
<p>f) Dedication of the Atlantic Highway: The State of Guatemala undertakes to make the necessary arrangements with the appropriate institutions for the highway to the Atlantic to be named the “Juan Jacobo Arbenz Guzmán Highway” during 2011. When said request is authorized, a public dedication ceremony of the aforementioned highway shall be held.</p>	Total⁷
<p>g) Return of areas of Finca El Cajon: As was explained above, property number 3443, page 76, of book 40 of Escuintla, of the General Registry of Property, named “Finca el Cajon” located in the Municipality of Santa Lucia Cotzumalguapa of the Department of Escuintla, owned by the Arbenz Vilanova family, was expropriated by the State of Guatemala under Government Junta Decree 2 of July 5, 1954 and recorded as the property of the State of Guatemala, as stipulated in Decree 68 of August 6, 1954 by the de facto President. Subsequently, said farm was subdivided into smaller lots by the National Institute of Agrarian Transformation (INTA). In 1996 and 2006, the Constitutional Court issued judgments in cases 305-95 and 1143-2005, ruling related Decrees 2 and 68 to be unconstitutional.</p> <p>In legal decision 29-2003 of the Advisory Section of the Office of the Attorney General of the Nation, said institution opined that “the Constitutional Court judgment in case 305-95 dated September 26, 1996, which found the provisions serving as the basis for the expropriation to be unconstitutional and rendered them null and void, amounted for all intents and purposes to creating an obligation on the State of Guatemala, to return the property or else duly compensate the heirs to it; thus said judgment is a decision of the utmost importance, in order to define the dubious situation which gave rise to the case under our consideration today.”</p> <p>In light of the foregoing, the State of Guatemala undertakes to conduct the appropriate inquiry and survey to verify whether any area that is part of the farm Finca El Cajon is under ownership of the State; if so, the State of Guatemala shall take legal and/or administrative measures so that ownership of this portion of the farm can be recovered by the family members of former President Arbenz Guzmán.</p> <p>Should the inquiry and study conducted on Finca El Cajon reveal that no part of it are under ownership of the State or that it is impossible to return it to the family of former President Arbenz Guzmán, the State undertakes to pay the additional amount [...] over the course of 2011.</p>	Total⁸

⁷ IACHR, Report No. 30/12, Case 12.546, Friendly Settlement, Juan Jacobo Árbenz Guzmán, Guatemala, March 20, 2012.

⁸ IACHR, Report No. 30/12, Case 12.546, Friendly Settlement, Juan Jacobo Árbenz Guzmán, Guatemala, March 20, 2012.

<p>The family of former President Arbenz Guzmán reserves the right to choose between return of the portion of Finca El Cajon, which as a result of the survey is deemed recoverable, or payment [...] by the end of 2011.</p>	
<p>h) Security: The State of Guatemala undertakes to make the arrangements with the appropriate state institutions and provide the security measures that are granted by the State to the family of former President Arbenz Guzmán when they visit Guatemala for purposes of implementation of this Friendly Settlement Agreement.</p> <p>The security measures shall be in effect as of the time the family members of former President Arbenz Guzmán arrive in Guatemala, either by air, sea or land and shall remain in effect for as long as the family members must remain in the country for purposes of implementation of this agreement.</p>	Total⁹
<p>i) Photography Exhibit at the National Museum of History: The State of Guatemala undertakes to arrange a temporary exhibition of photographs of former President Arbenz Guzmán and his family at the National Palace of Culture. The family of former President Arbenz Guzmán undertakes to provide the family photographs that they have kept in their possession and authorize the reproduction, exhibition and, as necessary, the publication thereof. The family members of former President Arbenz shall continue to own the original photographs, except any ones that they may decide to donate for exhibition.</p>	Total¹⁰
<p>j) Recovery of photographic archives of the Arbenz Guzmán Family: The State of Guatemala undertakes to digitally record in San Jose, Costa Rica, the photographic archives of former President Arbenz Guzmán, which is in the possession of his family members, and to give the family members three full digital copies and three prints of a mutually agreed upon selection of photographs. This commitment shall be fulfilled over the course of 2011.</p>	Total¹¹
<p>k) Photograph Book: The State undertakes to publish in 2011, a book with a selection of photographs of former President Arbenz Guzmán.</p> <p>Pursuant to Decree 33-98, the Law of Copyright and Related Rights, the Congress of the Republic of Guatemala and the amendments thereto, property rights to the book belong to the State of Guatemala, which can execute any of the acts listed in Article 21 of the aforementioned law. In the event that any dispute arises as a result of exercise of property rights by the State of Guatemala, Guatemalan laws and courts shall govern.</p>	Partial Substantial¹²
<p>l) New edition of the Book “Mi Esposo el Presidente Árbenz” (“My Husband President Arbenz”): The State of Guatemala undertakes to reprint the book “Mi Esposo el Presidente Árbenz,” authored by María Cristina Vilanova de Arbenz, wife of former President Arbenz Guzmán.</p> <p>The family of President Arbenz Guzmán undertakes to grant the State of Guatemala the rights to publish the aforementioned book and, if necessary, the copyrights thereto. It also authorizes the reprinting, publication and distribution of said book.</p>	Total¹³

⁹ IACHR, Report No. 30/12, Case 12.546, Friendly Settlement, Juan Jacobo Árbenz Guzmán, Guatemala, March 20, 2012.

¹⁰ IACHR, Report No. 30/12, Case 12.546, Friendly Settlement, Juan Jacobo Árbenz Guzmán, Guatemala, March 20, 2012.

¹¹ IACHR, Report No. 30/12, Case 12.546, Friendly Settlement, Juan Jacobo Árbenz Guzmán, Guatemala, March 20, 2012.

¹² See IACHR, Annual Report 2021, Chapter II, Section F. Negotiation and implementation of friendly settlement agreements.

Available at: <http://www.oas.org/en/iachr/docs/annual/2021/Chapters/IA2021cap2-en.pdf>

¹³ IACHR, Report No. 30/12, Case 12.546, Friendly Settlement, Juan Jacobo Árbenz Guzmán, Guatemala, March 20, 2012.

<p>The State undertakes to reprint 1000 copies of the book, which shall be distributed by the State at the University of San Carlos de Guatemala and at the ceremony of recognition of international responsibility.</p>	
<p>m) Writing and publishing the Biography of President Juan Jacobo Arbenz Guzmán: The State of Guatemala undertakes to write and publish the Biography of former President Juan Jacobo Arbenz Guzmán. Accordingly, the family undertakes to provide the information that is required and to support the author of the book in the drafting of the biography as well as authorizing the writing and publication thereof.</p> <p>The State undertakes to pay the amount of [...], for the writing of the biography. This payment shall be made through the petitioners in a single disbursement, which shall be carried out upon delivery of the text of the book. The publication, reproduction and distribution shall be paid by the State of Guatemala.</p> <p>In accordance with Decree 33-98, the Law of Copyright and Related Rights, the Congress of the Republic of Guatemala and the amendments thereto, property rights to the book belong to the State of Guatemala, which can execute any of the acts listed in Article 21 of the aforementioned law.</p> <p>It is hereby establish in this agreement that the State shall enter into a contract with the author or, as the case may be, with the family of President Arbenz Guzmán, regarding transfer of property rights over the book, which the author of the biography shall be commissioned to write, wherein it shall be established that the property rights shall be awarded to the State for the maximum length of time as provided by the law on the subject matter. In order to enter into the aforementioned contract, the provisions of Articles 72 and 83 of the law cited in the previous paragraph shall govern. Any dispute that may arise regarding the property rights of the State of Guatemala shall be subject to the laws and courts of Guatemala.</p>	<p>Total¹⁴</p>
<p>n) Issuing a series of postage stamps: The State of Guatemala undertakes to arrange for the issuing of a series of postage stamps, the theme and/or vignette of which shall be to commemorate former President Arbenz Guzmán and his term in the presidential office. The authorization, design, perforation system, frame, number, value, and printing shall be left to the discretion of the authorities in the particular field, with whom COPREDEH and the family of President Arbenz Guzmán shall coordinate proposals.</p>	<p>Partial¹⁵</p>
<p>o) Travel: The State of Guatemala undertakes to cover the cost of airline tickets of two family members of Juan Jacobo Arbenz Guzmán to attend the session of the Inter-American Commission on Human Rights for the signing of instant Friendly Settlement Agreement. It also undertakes to pay for the airline tickets and expenses of the stay for three members of the family of President Arbenz Guzmán to attend the public ceremony of recognition of responsibility to be held in the National Palace of Culture.</p>	<p>Total¹⁶</p>

IV. LEVEL OF COMPLIANCE OF THE CASE

¹⁴ IACHR, Report No. 30/12, Case 12.546, Friendly Settlement, Juan Jacobo Arbenz Guzmán, Guatemala, March 20, 2012.

¹⁵ See IACHR, Annual Report 2021, Chapter II, Section F. Negotiation and implementation of friendly settlement agreements. Available at: <http://www.oas.org/en/iachr/docs/annual/2021/Chapters/IA2021cap2-en.pdf>

¹⁶ IACHR, Report No. 30/12, Case 12.546, Friendly Settlement, Juan Jacobo Arbenz Guzmán, Guatemala, March 20, 2012.

3. The Commission noted that the petitioning party did not submit updated information since March 27, 2014. Additionally, the Commission noted that, since the publication of the FSA, the Commission has followed up on compliance with the clauses agreed by the parties in Chapter II G of the Annual Report, submitted to the OAS General Assembly. As part of this follow-up, the petitioning party was requested updated information each year, granting them a reasonable period of time to submit the information they deem necessary.

1. Based on the foregoing and taking into consideration that the petitioning party did not submit the comprehensive report requested by the IACHR on February 6, 2020, together with the warning of the possible filing of the case, and observing the unjustified procedural inactivity of the petitioning party, which constitutes a serious indication of disinterest in the follow-up of the FSA, the Commission decided to cease monitoring compliance with the friendly settlement agreement and to archive the case in accordance with Articles 42 and 48 of its Rules of Procedure, noting in its Annual Report to the General Assembly of the Organization of American States that clause K (printing of a photographic book) has been substantially partially fulfilled, that clause N (issuance of a series of postage stamps) has been partially fulfilled, and that the friendly settlement agreement has been substantially partially complied with.

V. INDIVIDUAL AND STRUCTURAL OUTCOMES OF THE CASE

A. Individual outcomes of the case:

- The State paid monetary reparation as compensation, based on the appraised value of the expropriated property;
- The State paid additional monetary compensation because it was not possible to return the “Finca el Cajón” to the victim’s family;
- On October 20, 2011, a public ceremony to recognize the State’s international responsibility was held in the Patio de la Paz at the National Palace of Culture;
- A letter of apology was given to the family and published in media outlets;
- A highway to the Atlantic was named after Juan Jacobo Árbenz.
- The State provided security measures so that family members of former President Árbenz Guzmán could attend the public ceremony of recognition of international responsibility on October 20, 2011;
- The photo archive of former President Árbenz Guzmán in the possession of his family was digitally recorded, in San José, Costa Rica, and three complete digital copies and three print copies of a selection made by mutual agreement were delivered to the family members;
- The book “Mi Esposo el Presidente Árbenz,” authored by María Cristina Vilanova de Árbenz, the wife of former President Árbenz Guzmán, was reprinted;
- A biography of former President Árbenz Guzmán, written by Guatemalan historian Doctor Julio Castellanos Cambranes, was produced and published, under the title “Jacobó Árbenz: por la patria y la revolución en Guatemala, 1944-1954.”
- Expenses were covered for two of Juan Jacobo Árbenz Guzmán’s family members to attend the signing of the friendly settlement agreement at the Inter-American Commission on Human Rights and the public ceremony of recognition of responsibility.

B. Structural outcomes of the case:

- The State opened a photography exhibit at the National Palace of Culture, titled “Árbenz, combatiente de la Libertad y el Progreso” and “Árbenz, fin del exilio/apoteosis del retorno”;
- A hall at the National History Árbenz was named after Jacobo Árbenz Guzmán;
- The basic national curriculum incorporated material “regarding the government of the then constitutional President of the Republic of Guatemala, Colonel Juan Jacobo Árbenz Guzmán, and the events that occurred at the time of the 1954 military coup against him”;
- Two curriculum guidelines were developed: a) curriculum guidelines, historical events, and political advancements of the government of Jacobo Árbenz, Primary Level, 4th, 5th, and 6th grades; and b) curriculum guidelines, historical events, and political advancements of the government of Jacobo Árbenz, Middle Level, Basic Cycles 2 and 3;
- Seven curriculum modules were developed over the course of 10 in-person sessions, in the departments of Quetzaltenango and Zacapa.